

## DEFINITION OF TERMS

These Terms of Service ("ToS") will be in effect and apply to all work done by Indalma Creative Inc. (the "Designer") for [Client] (together, the "Client") at any and all times, from project to project.

NOTE: These ToS are subject to revision and amendment from time to time by the Designer without further notice to the Client. In any event, the most recent version of the ToS will be applicable in all instances.

The Client may request a copy of the ToS at any time and is strongly encouraged to do so at the start of any new work requested of the Designer.

## PROJECT DESCRIPTION

See your particular contract.

## PAYMENT

A non-refundable deposit for studio time in an amount equal to 25% is requested prior to execution of the project. The deposit will be absolutely forfeited by the Client in the event the Client cancels the Project after the Designer has completed more than 25% of the agreed Project work. Once the deposit has been paid in hours, invoicing will resume at the end of each month for work-to-date until project completion. Invoices are due on receipt and deemed received by the Client after delivery by the Designer 7 calendar days from the invoice date. The Client must remit full payment to the Designer no later than 15 calendar days from the date of invoice. The Designer reserves the right to cease all work in progress and delivery of product if invoices remain unsatisfied 30 days past invoice date until the Client remits full payment for all balances owing. The Designer is not liable for any of the Client's costs, expenses, or losses incurred as a result of the Designer's work stoppage owing to the Client's failure to pay invoices.

The grant of any license or right of copyright is conditioned on receipt of full payment. No final artwork or files will be delivered until final invoices are paid in full. All print projects require 50% payment prior to project going to print. Remainder of balance due upon delivery of final product.

## PAST DUE ACCOUNTS IN ARREARS

The Designer is entitled to charge interest at 5 percent per month (5%), calculated per diem, on all unpaid invoice balances in arrears. The Client must pay to the Designer any costs, expenses, or losses incurred by the Designer as a result of the Client's failure to pay to the Designer all sums owed by the Client to the Designer, including without limiting the generality of the forgoing any taxes, interest, costs of debt collection and legal fees incurred in enforcing payment on a solicitor-client basis. The Client will pay the Designer a \$30 fee for each NSF returned cheque.

## ESTIMATES

The expenses shown are estimates. The fee will be as quoted on the Client's contract and the Designer shall keep the Client apprised of total hours within a reasonable period of time. Final fees and expenses shall be

shown when invoice is issued.

## EXPENSES

The Client shall reimburse the Designer for all expenses arising from this project, including the payment of any sales taxes due on this Project, including but not limited to Stock Photography, Artwork and/or material needed for the project.

## CHANGES

The Client must assume that all additions, alterations, changes in content, layout or process changes requested by the Client will alter the time and ultimately the cost of work.

## CANCELLATION

As directed by the Designer, the Client must return all creative product and property of the Designer or destroy such materials, whether held intangible or intangible media form.

In the event of cancellation of this Project, ownership of all copyrights and the original artwork shall be retained by the Designer. Expenses and hours already incurred shall be paid by the Client. The Client agrees to pay for the hours already billed for the Project at the time of cancellation.

## THIRD PARTY CONTRACTS

The Designer may sub-contract with any third-party as the Designer sees fit throughout the Project.

## APPROVAL OF FINAL ARTWORK

While the Designer takes all care to avoid errors, the Designer accepts no responsibility for typographical errors, spelling mistakes, or incorrect information on any project committed to print or production. The Client to proofread and approve all final copy before the production of artwork. The email verification of the Client's Representative shall be conclusive as to the approval of all artwork prior to their release for printing, implementation or installation. No refunds or reprints are provided after a final approved design has gone to print due to oversights by the Client's proof reading.

## SHIPPING

Client will pay all shipping costs related to the Project.

## PRINT RETURNS

It is agreed that the Designer is not responsible or held liable for any errors contained in the final product after the final product has been approved by the Client, committed to print or posted in view of the public. Approval must be given in writing. The Designer will not be held responsible for any changes or amendment made after approval. It is the sole responsibility of the Client to notify the Designer of any such errors during the revision cycle and before the final files have been generated.

In the event of a need to reprint due to errors in content, the Client must inform the Designer within 3 days of product acceptance, and must return the product (at the cost of the Client) within 10 days of acceptance for assessment. Payment for re-printed project must be prepaid.

### PRINT - COLOUR VARIATIONS

With all printing, there may be some colour variations from what you have seen on screen, to what the final product looks like, and previous orders. This is due to the nature of digital, offset and bulk-run printing. There will be no reprints at the expense of the Designer.

### PROJECT DURATION

The Client shall have 30 days to respond to each proof/request for information submitted. If the Client has failed to respond after 30 days, the Designer will deem the project complete. At such time, the Designer shall have no further obligation to the Client, and the Client shall pay the Designer all fees and expenses associated with the work performed.

### ACCREDITATION

The Designer retains the right to reproduce, publish and display the final design in any media for the purposes of recognition or professional advancement, and to be credited with authorship of the final design in connection with such issues. The moral rights of the Designer and its employees' creative works and productions may only be respectively waived expressly in writing.

### CONSTRUCTION FILES

The Designer retains all legal and beneficial ownership in the work-in-progress related to the Project and ownership of the Designer's work only vests in the Client once the invoice for the Client's final artwork has been fully paid to the Designer, including taxes and any interest on outstanding balances in arrears.

### OWNERSHIP AND RIGHTS

If a choice of design is presented, only one solution is deemed to be given by the Designer as fulfilling the Terms of Service Contract. All other designs remain the property of the Designer. The Client shall be entitled to full ownership of the final artwork upon full payment of the agreed fee.

### INDEMNIFICATION

You agree to indemnify and hold the Designer harmless from any and all claims, including reasonable attorneys' fees, arising out of your breach of any of these Terms of Service or in connection with your use of these services.

### COPYRIGHT AND TRADEMARK

The Client is exclusively liable to guarantee to the Designer that all materials, tangible and intangible, provided by the Designer, directly and indirectly under the Agreement and Terms of Service do not violate any copyright or trademark restriction and that the Client has full permission to use and provide all materials given to the Designer at all material times during the Project.

### CODE OF FAIR PRACTICE

The Designer warrants and represents that, to the best of his/her knowledge, the work assigned hereunder is

original and has not been previously published, or that consent to use has been obtained on a defined basis; that all work or portions thereof obtained through the undersigned from third parties is original or, if previously published, that consent to use has been obtained on a defined basis; that the Designer has full authority to make this agreement; and that the work prepared by the Designer does not contain any scandalous, libelous, or unlawful matter. This warranty does not extend to any uses that the Client or others may make of the Designer's product that may infringe on the rights of others. The Client expressly agrees that it will hold the Designer harmless for all liability caused by the Client's use of the Designer's product to the extent such use infringes on the rights of others.

### LIMITATION OF LIABILITY

Client agrees that it shall not hold the Designer or his/her agents or employees liable for any incidental or consequential damages that arise from the Designer's failure to perform any aspect of the project in a timely manner, regardless of whether such failure was caused by intentional or negligent acts or omissions of the Designer or Client, any client representatives or employees, or a third party.

Under no circumstances shall The Designer be liable to The Client for an indirect or consequential loss suffered by The Client relying on the information included in any project prepared by The Designer including (without limitation) loss of profit, loss of contracts or pure economic loss. In any event, the Client is absolutely limited to the price of the contract for any and all losses, claims of any kind caused by the negligence of the Designer.

The Client shall not hold the Designer, its directors, employees, and agents liable for any reason unless separately agreed in writing.

### APPLICABLE LAW

This agreement will be governed by and interpreted under the laws of British Columbia. All the parties hereby submit to the jurisdiction of the courts of the Province of British Columbia for all proceedings whatsoever to enforce the terms of this agreement, subject to resolution by prior arbitration.

### ENTIRE AGREEMENT

This agreement sets out the entire agreement between the parties respecting the subject transaction. There are no other representations, warranties, covenants or agreements, express, implied or collateral, respecting the matters addressed in the agreement. All prior representations of the Designer prior to the Terms of Service are deemed merged into the Terms of Service and void.

### ARBITRATION

All disputes under this contract, excepting debts owed to the Designer, must be resolved by arbitration and not litigation.



**CONFIDENTIALITY**

The terms of this contract are confidential between the parties unless all parties consent to limited disclosure in writing.

**ACCEPTANCE OF TERMS**

The signature of a party shall evidence the party's intention to be bound by these terms.

Designer \_\_\_\_\_

Date \_\_\_\_\_

Client \_\_\_\_\_

Date \_\_\_\_\_

The action of the sending and receipt of this agreement via electronic method will hold both parties in acceptance of these terms. The Designer as sender and The Client as recipient will acknowledge acceptance of these terms either through an e-mail noting acceptance or acceptance is acknowledged at the beginning of any work on said project. Electronic signatures shall be considered legal and binding.

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