

*stonehouse*TM

REPRESENTATIONS AND WARRANTIES

Client represents and warrants to Designer that: (a) To the best of Client's knowledge, use of the Client Content does not infringe the rights of any third party; (b) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials; © Client will obtain all necessary and appropriate rights and licenses to grant license to Designer to use Third Party Materials.

Designer represents and warranty to Client that: (a) Designer will provide the Services identified in the Agreement in a professional and workmanlike manner; (b) Designer shall secure all necessary rights, title, and interest in and to the Final Deliverables, including Designer Tools, sufficient for Designer to grant the intellectual property rights provided in this Agreement; © To the best of Designer's knowledge, the Deliverables will not violate the rights of any third parties; (d) If Client or third parties modify the Deliverables or use the Deliverables outside of the scope or purpose of this Agreement, all representations and warranties of Designer shall be void.

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.

Client shall indemnify Designer from any and all damages, liabilities, costs, losses, expenses or attorney fees arising out of any claim, demand, or action by a third party arising out of any breach of Client's responsibilities or obligations, representations or warranties under this Agreement. Designer shall promptly notify Client in writing of any third party claim or suit. Client shall have the right to fully control the defense and any settlement of such claim or suit.

In the case of a third party lawsuit or proceeding based on a claim that Deliverables breach the third party's intellectual property rights, and it is determined that such infringement has occurred, Designer may at its own expense, replace any infringing content with non-infringing content.

THE SERVICES AND THE WORK PRODUCT OF DESIGNER ARE SOLD "AS IS." IN ALL CIRCUMSTANCES, THE MAXIMUM LIABILITY OF DESIGNER, ITS DIRECTORS, OFFICERS, EMPLOYEES, DESIGN AGENTS AND AFFILIATES ("DESIGNER PARTIES"), 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 THE NET PROFIT OF DESIGNER. 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, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

TERM AND TERMINATION

Term: This agreement shall begin when both parties sign and shall continue until all Services are complete and delivered, or until the Agreement is Terminated.

Termination for Cause: Either party may terminate this agreement at any time if the other party breaches any of its material responsibilities or obligations under this Agreement and fails to cure that breach during agreed timeline.

Termination for Insolvency: Either party may terminate this agreement at any time, on written notice to the other party, if the other party ceases to conduct business in its normal course; makes an assignment for the benefit of creditors; is liquidated or otherwise dissolved; becomes insolvent; files a petition in bankruptcy; or a receiver, trustee, or custodian is appointed for it.

Termination by Mutual Agreement: Agreement may be terminated by the mutual agreement of the parties.

Termination Fees: In the event of termination, Client shall pay Designer for the Services performed through the date of termination in the amount of a prorated portion of the fees due. Client shall pay all Expenses, Fees, and Additional Costs incurred through the date of termination.

Intellectual Property: If Client terminates and on full payment of compensation, Designer grants Client right and title as provided by this Agreement with respect to those Deliverables provided and accepted by Client as of the date of termination.

Confidential Information: On 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) all rights and obligations regarding Confidential Information shall survive.

Service Agreement - the Project Proposal, Terms and Conditions and any other attached documents.

Design Services - all needed services and work product to be provided to Client by Designer as described and otherwise further defined in the Project Proposal.

Final Deliverables - all materials, writing, images or other creative content provided by Client used in preparing or creating the Deliverables. Final versions of Deliverables provided by Designer and accepted by Client.

Third Party Materials - proprietary third party materials which are incorporated into the Final Deliverables, including without limitation stock photography, illustration, and all designer tool developed and/or used by Designer in performing the Services, including pre-existing and newly developed software including source code, Web authoring tools, type fonts, and application tools, together with any other software, or other inventions whether or not patentable, and general non-copyrightable concepts such as website design, architecture, layout, navigational and functional elements.

RIGHTS TO FINAL ART

License: Designer grants to Client a non-exclusive, perpetual and worldwide license to use and display the Final Deliverables in accordance with this Agreement. The rights granted to Client are for use of the Final Deliverables in its original form only. Clients may not change, create derivative works or extract portions of the Final Deliverables.

Liquidation for unlicensed use: Additional use of any Deliverables by Client outside the scope of the license granted above requires additional fees. Designer shall be entitled to further compensation equal to [PERCENT] percent of the total original Project fee unless otherwise agreed in writing by both parties. In the event of non-payment, Designer shall be entitled to pursue all remedies under law and equity.

RIGHTS TO DELIVERABLES OTHER THAN FINAL ART

Client Content: Client Content is the exclusive property of the Client. Client grants Designer a nonexclusive, nontransferable license to use, reproduce, modify, display and publish the Client Content solely in connection with Designer's performance of the Services and limited promotional uses of the Deliverables as authorized in this Agreement.

Preliminary Works: Designer retains all rights in and to all Preliminary Works. Client shall return all Preliminary Works to Designer within thirty (30) days of completion of the Services.

Designer Tools: All Designer Tools are and shall remain the exclusive property of Designer. Designer grants Client a nonexclusive, nontransferable, perpetual, worldwide license to use the Designer Tools solely to the extent necessary with the Final Deliverables for the Project.

SUPPORT SERVICES

Warranty Period: Support Services means commercially reasonable technical support and assistance to maintain and update the Deliverables, including correcting any errors or Deficiencies. Requests for additional support will be billed on a time and materials basis at Designers standard rate.

Maintenance Period: After the Warranty Period expires and at Client's option, Designer will provide Support Services for the following 2 months for a monthly fee of Designer's hourly fees of \$80 per hour.

No Enhancements: The services in the Warranty Period and the Maintenance Period do not include enhancements to the Project or other services outside the scope of the Proposal.

ENHANCEMENTS

During the Maintenance Period, Client may request that Designer develop enhancements to the Deliverables. Designer shall exercise commercially reasonable efforts to prioritize Designer's resources to create such enhancements. Client understands Designer may have preexisting obligations that may delay requested enhancements. Designer shall provide any enhancements shall be provided on a time and materials basis at a Designers standard rate.

Alterations: Alteration of any Deliverable is prohibited without the express permission of the Designer. Designer will be given the first opportunity to make the required alterations. Unauthorized alterations shall constitute additional use and will be billed accordingly.

DISPUTE RESOLUTION

Negotiation: Parties agree to attempt to resolve any dispute by negotiation between the parties.

Arbitration/Mediation: If parties are unable to resolve the dispute by negotiation, either party may start mediation and/or binding arbitration in a forum mutually agreed to by the parties.

Litigation: In all other circumstances, the parties specifically consent to the local, state and federal courts located in the state of **Louisiana**. The parties waive any jurisdictional or venue defenses available to them and further consent to service of process by mail.

Attorney Fees: The prevailing party shall be entitled to recover its attorneys' fees and costs in any dispute resolved by binding arbitration or litigation.

Modification/Waiver: Modifications to this Agreement must be in writing and signed by both parties. 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.

Notices: All notices under this Agreement shall be given in writing either by: (a) Fax or Email, with return confirmation of receipt; (b) Certified or Registered mail, with return receipt requested. Notice will be effective when received, or in the case of email or fax, on confirmation of receipt.

Accountability: If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect. Where possible the invalid or unenforceable provision shall be interpreted in such manner as to be effective and valid under applicable law.



This Agreement is the entire understanding of the parties and supersedes all prior understandings and documents relating to the subject matter of this Agreement.

Client Name: _____

Signature: _____

Company: _____

Date: _____

Designer Name: _____

Signature: _____