



Agreement

This is an agreement between Diva Creative of 13 Anthony Street, Toowoomba Qld 4350 and The Client.

Background

This agreement is our entire understanding and may not be modified in any respect except in an executed agreement, in writing and agreed upon by both parties.

1. Definitions

- a. Agreement means this agreement, including the Background and Terms.
- b. Services means the services to be performed by Diva Creative as specified in the Quote, agreed to by the Client. Diva Creative undertakes to deliver the Services and Works to quote.
- c. Works means the works to be created by the Diva Creative and assigned to the Client as specified in the Quote.
- d. Proof means a draft of the works sent to the Client for approval, rejection or advice of revisions.
- e. Commencement Date refers to the date set out in the Quote provided and agreed upon by Diva Creative and the Client.
- f. Delivery Date means the date that acceptance is given as in Terms set out in the Agreement.
- g. Termination refers to the ceasing of Services by Diva Creative or the Client. If the Client wishes to terminate Services, they must do so in writing and give at least 14 days' notice prior to the end of the Contract. If Diva Creative terminates work, it will be done in writing to the Client.
- h. Revisions/Refinements means the fine-tuning of an already provided concept, not the generation of new work or new concepts.

2. Terms of Agreement

- a. This agreement commences on the Commencement Date and continues until the Designer completes the Services or this Agreement is terminated.

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- b. Work Hours/Days: This agreement assumes work will be completed within a standard work week (Monday through Friday, 9 a.m. to 5 p.m.). Public holidays excluded.
 - c. Diva Creative will provide an estimated turn around time for each design, however the actual time may vary depending on the Client's speed of response to concepts and revisions. While Diva Creative will make every reasonable effort to meet with specified deadlines, Diva Creative will not be responsible for any third-party delays.

3. Client's Performance

- a. The client must provide Diva Creative with clear and concise written instructions in a timely manner to allow Diva Creative to perform the Services in accordance with the Terms of Agreement.
- b. The client must provide Diva Creative all relevant copyright cleared materials, photographs and copy related to the Works, as specified in Article 5, before the commencement of Services in an organised and timely manner in accordance with the Terms of Agreement.

4. Payment

- a. The client will pay all fees set out in the Quote, agreed to by the Client and provided by Diva Creative.
- b. Unless otherwise arranged, 50 percent of the total fee is required before the commencement of Services and is strictly non-refundable.
- c. The remainder of the fee, will be paid by the client immediately after final approval of the Services has been given and before the delivery of the final Works.
- d. The Client will reimburse Diva Creative any out-of-pocket expenses incurred by Diva Creative in the course of providing the Services and creating the Works.
- e. Should Diva Creative be commissioned to arrange printing services or other merchandise for Works provided to the Client, on the approval of a quote for these services, full payment for the printing/merchandise and services must be made before proceeding.
- f. If any part of the work for this project is delayed for longer than 30 days, Diva Creative will bill the Client for work completed.

5. Copyright and Intellectual Property

- a. The Client will be responsible for all trademarks, service marks, copyright and patent infringement clearances. The Client is also responsible for arranging, prior to publication, any necessary legal clearance for Works prepared by Diva Creative. The Client will further provide indemnity for Diva Creative against any legal reparations in relation to these clearances for the Works created.
- b. Diva Creative retains the right to use and reproduce the Works for the purposes of:
 - 1. Promoting Diva Creative's skills and services, including by entering Works in competitions, design publications relation to professional quality and recognition in the Designer's industry; and

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2. Display of the Works in the Diva Creative's portfolio of work (print, website and social media), including for the purpose of soliciting new work from third parties.
 - c. The ownership of the copyright in all Works produced by Diva Creative which are not ultimately used remains with Diva Creative. Diva Creative also retains copyright to any Draft and Preliminary Works related to the Services provided including illustrations, photographs, designs, programs, electronic works, source code, sound recording, outtakes, storyboards, scripts, designs rejected by the client and source files.
 - d. No copyright or any other intellectual property rights in the materials will be licenced to the Client until Diva Creative has been paid in full all of the Designer's Fee as set up in the Quote.
 - e. Once the Designer's Fee is paid in full by the Client, Diva Creative will licence to the Client copyright in the Works, limited to the purpose and media described in the Services set out in the Quote. An unlimited licence can be negotiated with Diva Creative and will be factored into the Designer's Fee.

6. Expansion of the Scope of Work

- a. Works requested outside the scope of the Services requested by the Client, will incur charges additional to the Designer's Fee. Works falling outside of the scope of Services includes, but is not limited to:
 1. Additions to the list of Works;
 2. Alterations to text supplied by the Client for use in the Works;
 3. Additional drafts required in the provision of the Services;
- b. Changes to the Client's instructions or the brief;
 1. Changes to any of the Works after the Delivery Date;
 2. Additional consultations; and
 3. Conversion, adjustment or manipulation of images;
- c. Any changes required by the Client, must be given to Diva Creative in written format and not by verbal instruction.
- d. Any such additional services will be quoted by on Diva Creative prior to commencement and approved by the Client.

7. Acceptance of Works

- e. Diva Creative will deliver a proof of the Works to the Client upon the completion of the Works for final approval of the Works.
- f. Following the receipt of the proof of the Works the Client agrees within 7 days of delivery to examine the Works and to give Diva Creative notice of acceptance or rejection of the Works or advise Diva Creative of the changes or revisions which the Client requires to be made. All advice and instructions should be given in writing. All changes or revisions will be charged to the Client by Diva Creative on a time and materials basis.
- g. The day upon which the Client gives Diva Creative notice of acceptance of the Works is deemed to be the Final Delivery Date of the Works.

8. Errors and Omissions

- a. It is the responsibility of the Client to check proofs carefully for accuracy in all respects, ranging from spelling to technical illustration. Diva Creative is not liable for errors or omissions due to Client's not checking the proofs or sending incorrect materials.

9. Suppliers Performance

- a. Should the Client select their own vendor or printing service provider, the Client may request that Diva Creative coordinate their work. If at all possible, Diva Creative will attempt to do so, but cannot in anyway be held liable for quality, price, delivery or performance of the Client's chosen provider or any other third parties.

10. General

- a. All notices and consents required to be given under this Agreement must be in writing.
- b. This Agreement must not be assigned or otherwise transferred without the prior written consent of the Parties.
- c. This Agreement is governed by the Laws of Queensland and the Parties submit to the jurisdiction of that State.
- d. This Agreement may be modified only in writing with the explicit consent of both parties.