

The Imagination Factory, Inc.

DESIGN/DEVELOPMENT SERVICES AGREEMENT

This Agreement made effective this [DATE] day of [MONTH, YEAR] by and between:

THE IMAGINATION FACTORY INC. (DESIGNER), maintains a principal place of business at 15 Ionia SW, Suite 220; Grand Rapids, MI 49503 USA. The DESIGNER is a Michigan corporation experienced in the design, development, and production in a variety of marketing media for corporate communications and training.

and

_____ (CLIENT) maintains a principal place of business at _____
_____. The CLIENT is a _____ LLC / LLP /
CORP / SP / DBA (circle one).

The undersigneds represents and warrants that each has the power to enter into this Agreement on behalf of the DESIGNER and the CLIENT.

PROJECT INFORMATION

Project Title: _____

Project Outline:

___ Develop a **corporate logo** for above CLIENT to identify and market the company to the public. CLIENT shall be provided a minimum of THREE (3) initial logo designs for review. CLIENT may approve or request revisions to initial designs as needed. Additional NEW logo designs may be developed as requested by CLIENT, however, these additional designs may incur additional design time and costs. Delivery of the final logo shall be electronic file(s) (on CD if requested), in sizes and formats and color reasonably suitable for CLIENT to reproduce or have reproduced for publication needs.

CLIENT may further request that DESIGNER expand SCOPE (and budget) to include a Corporate Identity Design program, which would include development of layout/design of corporate stationery (letterhead, envelopes, business cards) OR a complete Corporate Branding Design program which includes all the items from the Corporate Identity program PLUS brochures/flyers, signage, shirts, labels, and other advertising/marketing materials as needed.

___ Develop a **web presence** for the above CLIENT to identify, market and/or provide ecommerce to the public. CLIENT shall be provided a maximum of three (3) initial concept designs for review. CLIENT may approve or request revisions to initial designs as needed. Once approved, coding and development of web site follows. Additional changes after this point may affect budget. Delivery of the final site shall be in an electronic format as reasonable and suitable for server placement.

___ Provide an ongoing **digital marketing retainer** for the above CLIENT to advertise, market and/or increase CLIENT web visibility to the public. Services may include, but not limited to,

- | | |
|--------------------------------------|---|
| ___ Site Search Engine Optimization, | ___ Branded Email Campaign, |
| ___ Site Blogging, | ___ Digital Advertising (Search Engine Marketing, PPC, adwords, etc.) |
| ___ Social Media Marketing/Blogging, | ___ Site Traffic Analysis. |

CLIENT shall have final approval for such efforts as needed. Substantial CLIENT approval delay may affect actual submission but shall not affect DESIGNER time spent/retainer. Retainers are billed in advance of the month and except by special agreement are not rolled forward. Additional delays/changes may affect budget.

___ Develop a **data application** for the above CLIENT to capture and manage specific data. CLIENT shall provide as much scope detail as possible for DESIGNER to assimilate in to project. CLIENT shall be provided initial screen layouts & may approve or request revisions to initial designs as needed. Once approved, coding and development of data application follows. Additional changes after this point may affect budget. Delivery of the final shall be in an electronic format as reasonable and suitable for client environment as specified in SCOPE.

CLIENT shall be responsible for delivery to DESIGNER any reference material or links to assist in development of preferred look-feel. CLIENT may, but is not required to, supply copyright unencumbered images of suitable quality to use.

Any/all CLIENT material provided to DESIGNER shall remain the property of CLIENT and shall be returned upon request or at termination of this agreement. Likewise, any material provided or shared by DESIGNER with CLIENT shall remain the property of the DESIGNER – save any final designs, artwork, diagrams and/or sketches per payment terms.

Project Scope/Detail (WORK):

SCOPE: _____

Project Estimate / Cost:

__ WORK fees are estimated NOT TO EXCEED budget of \$_____ (target \$_____).

__ Consultation fees are estimated at a total of \$_____.

__ Materials costs (project specific materials, etc.) are estimated at a total of \$_____.

__ Total estimated cost of project: \$_____.

__ Retainer cost of: _____ hours per month for _____ months (approx. \$_____).

Or

__ See attached estimate sheet for specifications.

PROJECT estimates are valid for 60 days from the date of estimate. PROJECT may be re-estimated if, upon receipt and inspection of all PROJECT elements, the DESIGNER determines the scope of the PROJECT has been altered dramatically from the originally agreed upon concept.

Printing/Reproduction/Publication/Advertising fees and/or Media Costs will be estimated separately and payment arrangements made between client and vendor.

PAYMENT SCHEDULE:

__ A deposit in an amount equal to 33% (one third) of the total estimated WORK project cost is requested prior to execution of the project (\$_____ deposit, \$_____ project estimate). WORK commences upon receipt of first payment/deposit.

Interim payment (2nd 33%) for work in progress is due within 10 days of preliminary client approval/invoice. Final payment of the remaining agreed balance (+/- original estimate) is to be paid upon delivery of the completed project. If project is substantially delayed due to CLIENT failure to meet milestone obligations, DESIGNER may, at its option, revert to monthly progress billings for WORK to date.

__ A deposit in an amount equal to 50% (one half) of the total estimated WORK project cost is requested prior to execution of the project \$_____ deposit, \$_____ project estimate). WORK commences upon receipt of first payment/deposit.

Remaining payment (2nd 50%) for the remaining agreed balance (+/- original estimate) is to be paid upon delivery of the completed project. If project is substantially delayed due to CLIENT failure to meet milestone obligations and/or request for add'l detail (calculations, descriptions, etc.), DESIGNER may, at its option, revert to monthly progress billings for WORK to date.

__ A deposit/setup fee in an amount equal to \$_____ USD, against the estimated WORK project cost is requested prior to execution of the project. WORK commences upon receipt of first payment/deposit.

Periodic payments (\$_____) is to be paid each month thereafter for the term of this agreement.

__ Additional payment arrangements (see attached sheet)

If WORK is substantially completed to specifications and awaiting final CLIENT content or approval, the DESIGNER may, at its option, issue the final billing LESS an appropriate holdback of hours (necessary to finalize and/or train). Upon delivery, any remaining balance shall be billed and due Net 15 days.

All payments are due 15 days from receipt of the project invoice as outlined above. ALL PAST DUE amounts may be subject to a LATE CHARGE (\$25/mo) AND a FINANCE CHARGE of 1.5% per month (18% annually) on all overdue balances. Accounts will be assessed \$20 for ALL checks returned for insufficient funds (NSF).

OWNERSHIP OF WORK

- X** The CLIENT asserts ownership of all PROJECT material provided and agrees to hold harmless DESIGNER in the event that such ownership comes into question for any reason.
- X** All reproduction rights and copyrights, to the extent that such copyrights may be so transferred, shall be conferred to CLIENT by the DESIGNER at the termination of PROJECT and only in the event that agreed PROJECT payments have been made. In the event that such copyrights may not be conferred, any costs or license fees shall be outlined to CLIENT.

The DESIGNER retains rights to use the completed PROJECT(s) and any preliminary designs for the purpose of design competitions, future publications on design, educational purposes and the marketing of the DESIGNER's business. Where applicable the CLIENT will be given any necessary credit for usage of the project elements.

COMPLETION/DELIVERY OF PROJECT

The estimated completion date the project is **30 days (logo) or 90-120 days (website) or earlier, following receipt of signed agreement & PROJECT deposit**. Any shipping or insurance costs will be assumed by the CLIENT. Any alteration or deviation from the above specifications involving extra costs will be executed only upon approval with the CLIENT. Any delay in the completion of the project due to actions/inactions or negligence of CLIENT, unusual transportation delays, unforeseen illness, or external forces beyond the control of the designer, shall entitle the DESIGNER to extend the completion/delivery date, upon notifying the CLIENT, by the time equivalent to the period of such delay.

PROOFING/ACCEPTANCE OF FINAL PROJECT

The DESIGNER shall make every effort to ensure the final product is free of any grammatical and spelling errors, before giving the final product to the CLIENT. CLIENT will be provided ample opportunity to review/approve work in progress, either in hardcopy or online as discussed, appropriate and agreed for the PROJECT. It is agreed that it is the CLIENT'S responsibility to ensure that there are no spelling or grammatical errors contained in the final product. 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 committed to print or posted in view of the public.

THIRD PARTY SHIPPING

In the event any material necessary for the production of the project must be shipped to a third party for additional processing, typesetting, photographic work, color separation, press work, or binding, the DESIGNER will incur no liability for losses incurred in transit, or due to the delay of the shipper of the third party.

CANCELLATION

The DESIGNER'S and the CLIENT'S obligations under this Agreement shall remain in force until all obligations under this Agreement have been properly completed or for one (1) full calendar year from the date thereof unless otherwise specified or the Agreement is sooner terminated by other applicable provisions.

The CLIENT shall not unreasonably withhold acceptance of, or payment for, the PROJECT. If, prior to completion of the PROJECT, the CLIENT observes any nonconformance with the design plan, the DESIGNER must be promptly notified, allowing for necessary corrections. Rejection of the completed PROJECT or cancellation during its execution will result in forfeiture of deposit and the possible billing for all additional labor or expenses to date. All elements of the project must then be returned to the DESIGNER. Any usage by the client of those design elements will result in appropriate legal action. CLIENT shall bear all costs, expenses, and reasonable attorney's fees in any action brought to recover payment under this contract or in which a principal officer of the Imagination Factory, Inc. may become a party by reason of this contract.

CONFIDENTIALITY

All correspondence and documents provided will be treated as confidential between the CLIENT and the DESIGNER, unless consent has been granted by both parties involved.

WORK FOR HIRE

While this WORK is a commissioned project, it does NOT qualify as a WORK FOR HIRE, as that term is defined in the Copyright Law of the United States of America, due to the Third Party software (FILEMAKER PRO, WORDPRESS and assorted plugins) that is incorporated in the PROJECT. The DESIGNER agrees that any completed final WORK performed by DESIGNER or its employees or subcontractors under this Agreement shall be delivered free of additional fees and/or licensing – save for the remaining PROJECT balances due the DESIGNER and any / recurring licensing fees of the Third Part software owner. To the extent not assigned by operation of law, DESIGNER agrees to assign or cause its employees or subcontractors to assign to CLIENT usage rights, title and interest in the final PROJECT, including all copyrights as applicable, and to execute any assignments, or other documents, presented to DESIGNER by CLIENT relating to this assignment of copyrights. DESIGNER represents and warrants that its contribution hereunder is solely created by DESIGNER, its employees or subcontractors and DESIGNER is the originator of such contribution.

ACCEPTANCE OF AGREEMENT

The above prices, specifications and conditions are hereby accepted. The DESIGNER is authorized to execute the PROJECT as outlined in this agreement. Payment will be made as proposed above. The signatory represents and warrants to DESIGNER that it has the power to enter into this Agreement on behalf of CLIENT; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party or violate any federal, state and municipal laws.

This Agreement shall be construed in accordance with the substantive laws of the State of Michigan of the United States of America, except the questions affecting the construction and the effect of any copyrights shall be determined in accordance with the law of the issuing country. This Agreement is not valid until signed CLIENT and returned to the DESIGNER.

For Imagination Factory, Inc.: _____

Client Signature: _____

Date: _____