



## Terms of Use & Client Agreement

Please read the full agreement and direct any questions to Terpodactyl Media before booking and/or using any of the produced media. This agreement is for the protection of both the Client and Contractor (Terpodactyl Media). Violation of Terpodactyl Media Terms of Use or Client Agreement may result in additional fees and/or removal of media licenses.

### PARTIES:

[Known as "Contractor"]

Amanda Day (Terpodactyl Media)

and

[Known as "Client"]

Company or Individual requesting media (photographs, moving images, audio, copy, etc.)

Collectively, all of the above people or businesses entering this Agreement will be referred to as the "Parties."

### PURPOSE OF AGREEMENT

Client wishes to hire Contractor to provide services relating to Client's media as detailed in this Agreement. Contractor has agreed to provide such services according to the terms of this Agreement.

### SERVICES

Contractor shall provide Client with one or more of the following services as priced on each quote:

- Photography
- Videography
- Editing/Production
- Copywriting
- Graphic Design

Contractor shall provide Client with the following additional services on an 'as needed' basis at the discretion of the Contractor:

- LIMITED ADDITIONAL SESSION TIME AS NEEDED TO COMPLETE PHOTOS, VIDEOS, OR GRAPHIC DESIGN (up to 20 minutes with no extra cost).

## **PRE-PROJECT CONSULTATION**

Contractor shall provide Client with the necessary pre-appointment consultation. In most instances, this consultation is conducted via phone, message, video chat, or in person upon request. A brief, pre-session review will take place on the scheduled session date and time. Length will vary by facility and is up to the discretion of Contractor.

## **COST**

The cost of all Services Contractor agrees to provide to Client shall be stated in Client's free, no-obligation quote. Total cost is inclusive of Contractor's Services, media licensing fees, any setup time, travel time, out-of-pocket costs, software licenses, administrative fees, assistance, and subcontractor costs. Contractor shall require a reservation fee from Client to hold booking date. This fee consists of the full session price for photography and videography shoots, or 50% of each graphic design project).

## **TRAVEL FEES**

Contractor requires a travel fee with a rate of \$0.60/mile. Any additional travel expenses will be arranged prior to billing and discussed with Client in a timely manner. All fees will be included in Client's quote.

## **LATE FEES**

**A non-refundable reservation fee is due to secure your session date and all other payment is due upon invoice.** If Contractor does not receive payment from Client within thirty calendar days of any invoice date, then Client will be charged a late fee of 1.5% of the outstanding amount per each day that Contractor does not receive payment.

*For example, Client owes Contractor \$1000 due on May 1 and fails to pay by May 31. On June 1, Client owes Contractor \$1015. On June 2, Client owes Contractor \$1030.23, and so on.*

## **EXPENSES**

Client may request additional props, models, or locations for consideration of the Contractor. Any extra expenses incurred by Contractor while providing Client with Services will be discussed with Client in a timely manner.

## **CONFIDENTIALITY**

Parties will treat and hold all information of or relating to this Agreement, the Services provided and the Parties' businesses in strict confidence and will not use any of this information except in connection with fulfilling the terms of this Agreement, and, if this Agreement is terminated for whatever reason, Parties will return all such information and any and all copies to the original Party and will remain bound to the Confidentiality provision of this Agreement. Confidential information (herein "Confidential Information") means information that is of value to its owner and is treated as proprietary or confidential including, but not limited to, intellectual property, inventions, trade secrets or information, financial data or information, speculation, knowledge, general Company data or reports, future business plans, strategies, customer lists and information, client acquisition strategies, advertising campaigns, information regarding executives and employees, and the terms and provisions of this Agreement.

Further, at all times neither Party shall use or disclose any Confidential Information relating in any way to the past, present, or future business affairs, conditions, clients, customers, efforts, employees, financial data, operations, practices, products, processes, properties, sales, or services of or relating in any way to the Company in whatever form to any parties outside of this Agreement.

This Agreement imposes no obligation upon the Parties with respect to any Confidential Information that was possessed before initial business interactions commenced between the Parties; is or becomes a matter of public knowledge through no fault of receiving Party; is rightfully received from a third party not owing a duty of confidentiality; is disclosed without a duty of confidentiality to a third party by, or with the authorization of the disclosing Party; or is independently developed by either Party without prior knowledge of privileged or confidential information.

## **RELATIONSHIPS OF THE PARTIES**

Contractor is not an employee, partner or member of Client's company or organization. Contractor has the sole right to control and direct the means, manner and method by which the Services in this Agreement are performed. Contractor has the right to hire assistants, subcontractors or employees to provide Client with its Services. Parties are individually and separately responsible for their own business operation and expenses, including securing or paying any licensing fees, insurance, taxes (including FICA), registrations or permits. Client is not responsible for paying for any benefits, workers compensation, insurance or unemployment fees to Contractor.

## **INTELLECTUAL PROPERTY**

Contractor (Terpodactyl Media/Amanda Day) retains the ownership of copyright in any and all designs pursuant to federal copyright law (Chapter 17, Section 201-02, of the United States Code.) Any and all work produced in connection with, or in the process of fulfilling this Agreement, are expressly and solely owned by Contractor. Contractor grants to Client a nontransferable, royalty-free license of media produced with and for Client for the specific purpose of social media, website, printed promotional material use (such as free pamphlets, banners, and company signs), and merchandising when the proper license is purchased from Contractor (see "Media Licenses" section). Any unauthorized use of the media, such as using the media for other purposes than those specified herein, will result in a termination of this agreement/media licenses and/or additional fees/royalties to Contractor. Parties own their respective trademarks and intellectual property used in the normal and separate course of their business and agree not to infringe upon or otherwise use each other's respective intellectual property except for in the course of providing Client with its Services.

## **STYLE RELEASE**

Client has spent a satisfactory amount of time reviewing Contractor's work and has a reasonable expectation that Contractor's Services will produce a reasonably similar outcome and result for Client. Contractor will use reasonable efforts to ensure Client's services are carried out in a style and manner consistent with Contractor's current portfolio and services, and Contractor will try to incorporate any suggestions Client makes. However, Client understands and agrees that:

- Every client and final delivery is different, with different tastes, budgets, and needs;
- Media is a subjective service and Contractor is a provider with a unique vision, with an ever-evolving style and technique;
- Contractor will use her personal judgment to create favorable results for Client, which may not include strict adherence to Client's suggestions;
- Dissatisfaction with Contractor's independent judgment or individual management style are not valid reasons for termination of this Agreement or request of any monies returned.

## **LIMIT OF LIABILITY**

Client agrees that the maximum amount of damages he/she is entitled to in any claim of or relating to this Agreement or Services provided herein are not to exceed Contractor's total cost as set forth in this Agreement.

## **INDEMNIFICATION**

Client agrees to indemnify and hold harmless Contractor and its employees, agents and independent contractors for any injury, property damage, liability, claim or other cause of action arising out of or related to Services provided herein.

## **ASSUMPTION OF RISK**

Client and related parties/ participants expressly assume any risk of photography, videography, copywriting, design, and related activities as described herein.

## **CANCELLATIONS AND RESCHEDULING CLIENT DESIRES TO CANCEL OR RESCHEDULE**

If the Client desires to cancel Services of Contractor for any reason at any time, then Client shall provide at least 30 days Notice to Contractor in order to cancel this contract. Client may reschedule Services with at least 48 hours Notice. Providing Notice will not relieve Client of any currently outstanding payment obligations. Contractor will not be obligated to refund any portion of monies Client has previously paid to Contractor. If Contractor is not able to re-book further services on or before Client's requested rescheduling date, Client may use their non-refundable retainer fee toward future services with Contractor at Contractor's discretion. Contractor has no obligation to attempt to re-book further Services to make up for Client's cancellation or rescheduling.

## **CONTRACTOR DESIRES TO CANCEL OR RESCHEDULE**

In the event Contractor cannot perform her obligations in any or all parts of this Agreement, she (or a responsible party) will immediately give notice to Client, and at the Contractor's discretion, either attempt to find a reasonable substitute to fulfill the terms of this Agreement or issue a refund/credit based on a reasonably accurate percentage of Services rendered. In the case of a refund where no reasonable substitute is found, Contractor shall excuse Client of further performance obligations in this Agreement.

## **FORCE MAJEURE**

Either party may choose to be excused of any further performance obligations in the event of a disastrous occurrence outside the control of either party that materially affects the performance of Services, such as: an "act of God" (fires, explosions, earthquakes, hurricane, natural disasters, flooding, storms or infestation), or War, Invasion, Act of Foreign Enemies, Embargo, or other Hostility (whether declared or not), or any hazardous situation created outside the control of either party such as a riot, disorder, nuclear leak or explosion, or act or threat of terrorism.

## **NO-SHOWS**

If it becomes impossible for Contractor to render Services due to the fault of the Client or parties related to Client, such as failure to provide necessary elements of the Services or failure of one or more essential parties to the Services to complete tasks in a timely manner, it is within the Contractor's sole discretion to allow for any additional time or dates to render Services. In such an event, any outstanding amount will immediately become due and payable to Contractor.

## **SOCIAL MEDIA**

Client acknowledges that content produced by Contractor may violate various social media platform's Terms of Service and agrees not to hold Contractor accountable for any content/user removal or flagging. Client acknowledges that Contractor does not influence social media or application performance and that the outcome of shared media (created by the Contractor) is reliant upon developer algorithms and Client's knowledge of social platforms.

## CONTRACTOR USE OF CLIENT MEDIA

As the creator and owner of the copyright, the Contractor (Terpodactyl Media) may use media produced for Clients in the following ways: social media, advertising, personal prints, for-profit art prints, print/web editorial stock, blogs, merchandising, multimedia projects, and more. If Client does not wish to see media used outside of the Client's company, additional arrangements and licensing may be made. This will prohibit the Contractor from using Client's media for the duration of the licensing term. Any "print/web editorial stock" media will be shared without the inclusion of any Client information. Any "for-profit art prints" will feature Client (producer) credit unless otherwise requested by the Client.

Media licensing is charged in addition to photography and/or design fees. Please request a quote for your project pricing today.

	STANDARD	FIRST-USE	EXCLUSIVE	MERCHANDISING	CO-BRAND	3RD PARTY
<b>LICENSE TERM</b> (after term conclusion, license must be renewed for <b>new</b> media use only)	2 YEARS	2 YEARS	2 YEARS	2 YEAR	2 YEAR	2 YEAR
<b>SOCIAL/WEB USE</b> (license include social media, website, and menu use)	YES	YES	YES	YES	YES	YES
<b>PRINT ADVERTISING</b> (magazine and newspaper ads, promotional handouts)	YES	YES	YES	YES	YES	YES
<b>LARGE FORMAT PRINTS</b> (Banners, billboards, signs, and more)	NO	NO	NO	YES	NO	NO
<b>FIRST-RELEASE PRIVILEGE</b> (void after 6 months)	NO	YES	YES	NO	NO	NO
<b>ARTIST ATTRIBUTION REQUIRED</b> ("by Terpodactyl Media")	YES	YES	NO	NO	YES	NO
<b>ALTERATIONS PERMITTED</b> (edits, filters, overlays, graphics, etc.)	NO	NO	YES	YES	NO	YES
<b>FOR-PROFIT DISTRIBUTION</b> (prints/merch for sale, product packaging)	NO	NO	NO	YES	NO	NO
<b>PRICE PER MEDIA PIECE</b> (per image/design, etc.)	\$20	\$25	\$50	\$300	\$50	\$500

Licenses may be extended or purchased in combination to accommodate client usage needs. Violations of licensing guidelines may result in additional late fees. Please contact Terpodactyl Media with any usage questions.

**\*Licenses may be extended or purchased in pairs to accommodate Client usage needs. The listed "license term" only applies to new usage and does not require Client removal from previous posting after stated period expires.**

#### **GOVERNING LAW**

**The laws of The State of Oregon (and any other applicable courts of law) govern all matters arising under or relating to this Agreement, including torts.**

#### **SEVERABILITY**

**If any portion of this Agreement is deemed to be illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential provisions of this Agreement for each party remain legal and enforceable.**

#### **AMENDMENTS**

**The Contractor reserves the right to revise this Agreement with timely notice to Client.**

#### **ASSIGNMENTS**

**Neither party may assign or subcontract any rights or obligations in this Agreement without proper Notice, unless otherwise provided herein.**

**BY BOOKING TERPODACTYL MEDIA SERVICES  
CLIENT ACKNOWLEDGES AND ACCEPTS TERMS  
OF USE.**

**Any violation of Terpodactyl Media Terms of Use (Client Agreement) may result in additional fees and/or immediate removal of media licenses.**