

DESIGNER AGREEMENT



Designer Agreement Overview

WHAT IT IS: This is an agreement between you and your client that outlines the terms of your relationship.

WHAT IT DOES: This agreement sets expectations and outlines terms for you and your client. By signing this agreement, you and your client are literally “on the same page” when it comes to working together. Among other things, this agreement:

- Contains details including deliverables, payment terms, your responsibilities, and the client’s responsibilities
- Limits your liabilities (that is, it protects you and your business legally and financially)
- Provides protocols for changing the scope of work, termination of the agreement, and more
- Provides you recourse (e.g., in the event you need to collect payments)
- Ensures that any legal action brought against you will be handled in the state in which you reside so that you’re not required to fly across the country if a client on the other coast sues you and you have to appear in court

WHY YOU NEED IT: To help prevent misunderstandings and disagreements with your clients. When you’re both crystal clear about what to expect, there’s less chance of confusion, and if there is a disagreement, you can refer back to the agreement to determine what to do about it. Without a signed agreement like this in place, you may not be able to collect attorney’s fees or even enforce basic provisions of the deal.

WHEN TO USE IT: Every time you sign on a new Coaching client.

Clause-By-Clause Explanations and Instructions

Editing Instructions: The first time you go through the template, customize it to your business according to the instructions below. Sections that should be filled in, altered to suit your needs, or deleted if they're not applicable to you are in **red**. Leave the signature section at the bottom and the **[Client Name]** in the recitals (the part between the title and the sections) blank for now. Then save the document – this will be *your* template going forward. Each time you bring on a new client, use your template and update the recitals with the client's name where it says **[Client Name]**.

THE TITLE

On the top of the page, insert your business name in **[Company, LLC or Individual]**. The remainder of the Agreement uses the word “Company” so that you only need to change your business name here and at the signature line.

THE RECITALS

In the part between the title and the numbered sections, insert your business name in **[Company, LLC or Individual]**. The remainder of the Agreement uses the word “Company” so that you only need to change your business name here and at the signature line. When you bring on a new client, insert the client's name where it says **[Client Name]**. Client Name can be an individual, business name, or LLC. The remainder of the Agreement uses the word “Client” throughout.

1. Services

Purpose: The clause is where you define exactly what the client expects you to deliver. You can list the details inside the document or use the clause below to reference a proposal.

Instructions: Describe in detail the services you'll provide and fees you'll charge. Be as detailed as possible in typing in all of the duties and expectations between you and your client. This will be the material provisions regarding deliverables and expectations of each party. Be as detailed as possible with regard to time, deliverables, fees, etc. If you proved a proposal or estimate, then you can replace the clause with this sentence: "Company shall provide services to Client as described in the Proposal, which is incorporated by reference herein ("Services")."

2. Fees

Purpose: The fees clause expressly states your monetary rate in exchange for services as well as when and how those fees are due. Explain it all here, and be specific! There is also a clause here if you will be invoicing and to provide for late fees. This helps give your clients the urgency they sometimes need to go ahead and make the payment.

Instructions: Are you charging by the hour, week, or by project? Explain how and how much you will charge your clients for your services. Make sure to specify if you're operating hourly, weekly, by project, or by some other method. Here, switch out the hourly rate and initial fee as needed. The last sentence is also optional based on your preferences.

3. Termination

Purpose: Sometimes, business relationships just don't work out. Termination clauses provide parties with a legal way out of the deal. This clause also allows your client to terminate the agreement with written notice, and it allows you to both terminate immediately if it's mutual. There is also a termination fee associated with cancelling in the event a client cancels on you.

Instructions: Switch out [30 days'] to your company's preferences. Review to ensure it matches your desires. Also, the termination fee is set at 10% of remaining estimate. Switch out [10%] for your company's preferences. Review to ensure it matches your desires. Don't make the termination fee unreasonable, or it could jeopardize the enforceability of the fee.

4. Subcontractor

Purpose: Sometimes you need a little extra help on a project. This clause allows you to utilize subcontractors on company projects if needed without having to get client approval.

Instructions: None.

5. Decision-Making & Limitation of Liability Responsibility

Purpose: The limit of liability clause ensures that your Client will not bring any claims against your company related to your company's participation in contracted services. This clause is extremely friendly to the protection of your company and serves as a release from liability against your Client.

Instructions: None.

6. Indemnification

Purpose: An indemnification clause assures that your clients will defend your company against all claims brought against you related to the services performed for your client. To indemnify means to "defend" or "hold harmless," so here, the client agrees to cover your losses if they do something that causes you harm or causes a third party to sue you. Think of this clause as your safety net against claims brought against your company.

Instructions: None.

7. Content and Social Media

Purpose: As someone working in the design field, you know more than anyone how powerful social media is. This clause states that the Company is not liable for content posted on behalf of your clients. It's a litigious world and if your Client gets backlash for something you posted, this clause protects you.

Instructions: None.

8. Results Not Guaranteed

Purpose: This is to protect you in the event Client thinks you are a magic genie that can produce unrealistic results for them.

Instructions: None.

9. Capacity as Independent Contractor

Purpose: This clause expressly states that your company serves as an independent contractor of the client. This is needed to clarify that you are not working as an employee of the client.

Instructions: None.

10. Ownership of Intellectual Property

Purpose: Intellectual property is defined as intangible creations such as trade secrets, industrial design, and rights associated with a patent or trademark. Here, this clause gives the ownership of intellectual property to the Client for all work arising out of the work the Company was hired to perform.

Instructions: None.

11. Portfolio

Purpose: This clause grants you portfolio rights. Portfolio rights are simply the permission to display the work in your portfolio after the project is done. As a creative professional, this clause is super important because it allows your company to showcase work completed for previous clients in order to self-advertise and attract future business.

Instructions: None.

12. Materials Provided By Client

Purpose: All marketing materials that the Client provides you with to perform your services still belong to the Client. This includes Client logos and brand content. Additionally, this protects your Company in the event that the Client supplies you with infringed property.

Instructions: None.

13. Failure to Perform

Purpose: As a business owner, you can potentially run into situations where you're not able to fulfill your end of the deal with your Client. As listed in the contract, sometimes illness or acts of God (earthquake, flooding, pandemic, etc.) make it impossible to complete your obligations. This clause is what is commonly known as a force majeure and it prevents you from being liable for failing to deliver in the circumstances listed.

Instructions: None.

14. Deliverables

Purpose: As the clause states, it's your goal and duty to deliver all deliverables to the Client laid out in Schedule A. If your deliverables don't conform to the specifications laid out in Schedule A, the Client has the right within (15) days of delivery to notify you. This can also be helpful for you if a Client comes back several weeks or months later complaining about a work product since there was only a 15-day window to make such a request. After the 15-day window, your Client will be deemed to have accepted the work so you will no longer have an obligation. What this does is put an ending date so that your clients cannot come back months later for more work.

Instructions: None.

15. Change in Specifications

Purpose: This provision explains how to handle situations when clients change their scope of services. This is to ensure you and your Client remain on the same page as to expectations of each other.

Instructions: None.

16. Confidentiality

Purpose: Underneath this confidentiality provision, your company cannot disclose your client's confidential information. Confidential information is not limited to banking information or launch dates but to any and all information that is not readily available to the public. This clause places the duty to identify confidential information as such on the Client.

Instructions: None.

17. Non-solicitation

Purpose: This clause ensures integrity between your company and your client that your client will not steal employees out from under you within a one-year period of termination of the contract.

Instructions: None.

18. Severability

Purpose: The severability clause allows the main part of the contract to remain in effect even if certain clauses are illegal or unenforceable. On the off chance that a clause is unenforceable, this provision guarantees that one bad clause does not break or “sever” the deal completely. This is one of those “boilerplate” clauses that’s really important.

Instructions: None.

19. Waiver

Purpose: In the case that your company or your client desires to waive or modify a section within this contract, you may do so, but it must be in writing and signed by both parties. This prevents the failure to enforce a section of the agreement one time from coming back to undermine its enforceability later on. This is another boilerplate clause that’s very important to include in a Client Agreement.

Instructions: None.

20. Prevailing Party

Purpose: If there’s a dispute that requires retaining attorneys, whoever prevails from the dispute will be reimbursed for their attorney’s fees. This clause is incredibly important, as it makes it more cost effective should you need to retain an attorney, because now your Client may have to reimburse you for legal fees.

Instructions: None.

21. Governing Law

Purpose: This clause clarifies what laws will govern this contract. Contract laws vary state-to-state, so the contract must clarify what state laws govern this particular agreement.

Instructions: Replace [State] with your state and county of your company’s primary location.

22. Entire Agreement

Purpose: The purpose of this clause is to ensure that all of the terms and conditions of your agreement with your client are set out in a single contractual document. An entire agreement clause promotes certainty of obligations and prevents either party from relying on conversations or preconceived notions outside this contract.

Instructions: None.

23. Dispute Resolution

Purpose: This sets out a detailed protocol if there is a dispute. This scheme is designed to start with mediation (a voluntary negotiation process) and then end in arbitration (where an arbiter is used to make the final determination instead of a jury using the normal court system). This can save you lots of money on legal fees.

Instructions: Replace [County, State] with your state and county of your company's primary location. This is where your mediation or arbitration will take place.

24. Electronic Signature and Counterparts

Purpose: To allow you and your client to sign this agreement with the same power and authority as signing in person.

Instructions: None.

SIGNATURE BLOCK

Purpose: To clarify who is obligating themselves to these terms and also to actually take the final step in reaching agreement. All of your hard work does little good when you go to collect on an unpaid invoice if you do not have a signed copy of this agreement, so be sure to **get it signed and keep a copy**.

Instructions: Lastly, insert your business name, name of owner/president, and name of client in the signature block. For job title, be sure to include your title (e.g. Member, President, Manager, CEO, etc) as it denotes that you are signing on behalf of the company and not individually.

Pro Tip: Every time you sign something for the business, it is important to always sign your name as a representative of the LLC and not just individually. This maintains the liability protection you're getting with your LLC. For example, sign: "Wesley Henderson, Member" (or otherwise designate you are signing on behalf of the LLC and not as an individual). Finally, have your client sign and date.

Alternate Language

Note: *This language is alternate meaning it can be used instead of the existing language in the template.*

Fees

Client agrees to pay Company at a rate of Client agrees to pay [50%] upfront nonrefundable fee at the commencement of the project (“Initial Fee”). The final fee shall be paid upon completion of the Services. Failure to make payment within 15 days of the completion of the Services shall result in a 10% late fee that shall recur every 30 days thereafter.

Purpose: This is an alternate fee agreement for use with project based billing. This would replace Section 2 in the template.

Instructions: Input your billing details and cost of the project in red to customize to your practice. Then replace the language in Section 2 in the Agreement template with this language.