



Below are Keepsake Digital Media's standard terms and conditions. It is vital that you (The Client) please take time to read through thoroughly and ensure you fully understand these terms and conditions and their implications before you commence any project with Keepsake Digital Media.

Please contact us if you do not understand any of the terms and conditions in this document.

### Commencement of work

Agreement to work with, and submission of a design brief and payment of deposit to Keepsake Digital Media constitutes agreement to these terms and conditions.

### Payment Terms

"The Client" agrees to pay a 25% deposit of the quoted amount to commence any design project, with the balance payable prior to delivery. Once research, resources allocated or design work has commenced on a project, this deposit is non-refundable. In the case of a change of mind by "The Client" this deposit is non-refundable. Keepsake Digital Media endeavours to provide design services that meet and exceed a client's needs and expectations, but in the event of a "change of mind" (after a project has commenced) by "The Client", the initial 25% deposit is forfeited, plus a prorata payment based upon the time spent.

**All printing accounts must be settled in full prior to the release of the files to the printer.** Accounts which are not paid within 7 days of the invoice due date will incur a late administration fee of \$20 + GST. Accounts which remain outstanding for 30 days after the invoice due date will incur an additional late payment fee equivalent to 5% of the project costs for each week payment is outstanding. If you are having difficulty paying your invoice, please get in touch as soon as you are aware of the issue, so we can discuss a solution that works for your business.

### Design samples

"The Client" also agrees to allow Keepsake Digital Media to showcase any/all work created in the course of a project as part of Keepsake Digital Media portfolio. Keepsake Digital Media acknowledges the confidential nature of projects and agrees to only display project work once product/site has been publicly launched/commences. "The Client" also agrees to forward two copies of any print material resulting from design work, to Keepsake Digital Media, for their design portfolio.

### Force Majeure

Keepsake Digital Media shall not be liable for any failure or delay in supply or delivery of products/services where such failure or delay is wholly or partly due to any cause or circumstances whatsoever outside the reasonable control of Keepsake Digital Media. Including but not limited to war, natural disasters, strikes, lockouts, industrial disputes or unrest, government restrictions or transport delays, fire, power outages, failure attributable to hosting suppliers, breakdown of plant, theft, vandalism, riots, civil commotions, accidents of any kind or act of terrorism.

### Fees for service

It is agreed that the fee for service shall be the cost estimates provided via email, unless work undertaken exceeds work outlined. If work undertaken exceeds the items specified in the quote, "The Client" agrees to pay appropriate fees for the excess work, outside the scope of the original agreement. Where ever possible the client will be notified of increases in the scope of the project.

### Excess work

This is defined as any work involving additions to the list of items defined in the Estimate of Services or changes to all pieces of finished artwork after sign off by an authorised representative of "The Client". From time to time "The Client" will require extra design requirements during a project, or extra files upon completion of a project. The client will be informed that the alterations or changes requested fall outside the scope of the original estimate. If the client wishes these alterations to be made they must agree in writing, and a fee of \$45 (plus GST if applicable) per hour will be payable.

Should additional design not initially quoted for be requested during the design process, a progress payment will be payable prior to

further work being carried out. Otherwise, all additional costs will be added to the final invoice, payable prior to delivery of design files.

Publication and/or release of work performed on behalf of the client by Keepsake Digital Media may not take place before cleared funds have been received.

Any booking fees, delivery fees, design commencement fees, or progress payments are non-refundable once work has commenced if the contract is terminated by the client, after work has commenced.

### Liability & Litigation

It is agreed that all work and materials provided for "The Client" by Keepsake Digital Media will be free and clear of all liens and encumbrances and may be lawfully used by "The Client" without infringing upon the rights of others including, and without limiting the generality of the foregoing, any copyright trade secret patent or trade mark rights of any third party.

Under no circumstances shall Keepsake Digital Media be liable to "The Client" for an indirect or consequential loss suffered by "The Client" relying on the information included in the supplies prepared by Keepsake Digital Media including (without limitation) loss of profit, loss of contracts or pure economic loss. Any liability is strictly limited to the direct losses associated with remedial costs of the supplies only, not to include claims for delays, out of sequence working, non productive overtime, award of costs, etc. Liability to any third party for any reason is specifically excluded unless separately agreed in writing.

Keepsake Digital Media is not liable for any copyright infringement resulting from material supplied by "The Client".

### Approval of Final Artwork

While Keepsake Digital Media takes all care to avoid errors, Keepsake Digital Media accepts no responsibility for typographical errors, spelling mistakes, or incorrect information on any project committed to print or production. **It is the "Client's" responsibility to proof read and approve all final copy before the production of artwork. The email verification of the Client's representative shall be conclusive as to the approval of all artwork prior to their release for printing, implementation or installation.** No refunds or reprints are given after a final approved design has gone to print due to oversights by "The Client's" proof reading.

### Print Returns And Refunds

It is agreed that Keepsake Digital Media is not responsible or held liable for any errors contained in the final product after the final product has been approved by the client, (approval may be given in writing or via email), committed to print or posted in view of the public. Keepsake Digital Media will not be held responsible for and changes or amendments made after approval. **It is the sole responsibility of the client to notify Keepsake Digital Media of any such errors during the revision cycle and before the final files have been generated.**

In the event of a need to reprint due to errors in content, the client must inform Keepsake Digital Media within 3 days of product acceptance, and if required must return the product (at the cost of the client) within 10 days of acceptance for assessment.

As with all print projects, payment for re-printed projects MUST be prepaid.

### Print – Colour Variations

With all printing there may be some colour variations from what you have seen on screen to what the final product looks like and previous orders. This is due to the nature of CMYK printing and bulk-run printing system. There will be no reprints at the expense of Keepsake Digital Media.

### Copyright

Keepsake Digital Media retains full ownership of design concepts and materials it produces. Once a final concept is delivered to a client and full payment is received, complete ownership rights to the concept transfer to the client. Unused concepts remain the property of Keepsake Digital Media. Keepsake Digital Media may still use paid-for concepts in its promotional materials and in its design portfolio. Unless the client requests otherwise, Keepsake Digital Media retains the right to display a small byline claiming design credit on works it produces, except for corporate stationery.

Keepsake Digital Media reserve the right to use stock images in the creation of designs if required. Costs of this will be outlined to the client prior to purchase if not included in the proposal quote.

In accordance with the Australian Copyright Act (1968), 'licensing of copyright is subject to a mutual agreement made between

client and designer'. Copyright will remain property of Keepsake Digital Media till such time an agreement is in place. As part of Keepsake Digital Media terms of business, the copyright licence is automatically released to the client on receipt of final payment for the commissioned work. Keepsake Digital Media reserve the right to use all artwork produced, concepts produced in the course of the project (including those concepts not selected) and revisions for the purposes of promoting Keepsake Digital Media in print or digital media portfolios, social media and blogs, except where the client has specifically requested in writing otherwise.

### Termination policy

From time to time circumstances beyond the control of either party may result in the need for project cancellation. In the event of the client cancelling a project after a project has commenced, the advance payment (deposit) will be forfeited in lieu of compensation to Keepsake Digital Media. This is to cover design and administration time spent, resources purchased and allocated, research time and administration costs. If the project is more than 50% completed (this is determined by Keepsake Digital Media and the client by negotiation) a prorata payment is payable for time spent up until cancellation notice, at an hourly rate of \$50 per hour plus GST.

If a project is cancelled by Keepsake Digital Media, due to unforeseen circumstances, the deposit will be refunded in full to the client in a timely manner.

In the event of cancellation of the project by the client, ownership of all copyrights and the original artwork and disks shall be returned and retained by Keepsake Digital Media.

### Confidentiality

It is agreed that Keepsake Digital Media shall not at any time either during the continuance of the work outlined or thereafter, except in the course of their duties, divulge any of the confidential affairs of "The Client" or any of its clients or associated companies to anyone whatsoever without the previous consent in writing of "The Client".

### Late payments & Default

Accounts which are not paid within 7 days of the invoice due date will incur a late administration fee of \$20 + GST. Accounts which remain outstanding for 30 days after the invoice due date will incur an additional late payment fee equivalent to 5% of the project costs for each week payment is outstanding.

An account shall be considered in default if it remains unpaid for 30 days from the invoice due date or "the client" has stated expressly that they do not intend to pay an invoice by Keepsake Digital Media, unless prior arrangements have been made. Keepsake Digital Media shall at its sole discretion suspend any and all services provided to the client by Keepsake Digital Media or its subsidiaries (including but not limited to hosting, websites designed files, concepts, artwork, and email) and employ debt collection measures until the total outstanding balance has been fully paid. This includes any and all unpaid accounts due for services ordered, including, but not limited to design, hosting, domain registration, search engine submission, maintenance, sub-contractors, printers, photographers and libraries plus bank interest calculated daily for each day payment is overdue.

Suspension of such services does not relieve the client of its obligation to pay the due amount. Files on external servers, such as hosted e-commerce solutions will be removed and held until payment is made or for 30 days until the client has paid for their invoices in full.

"The Client" whose account is in default agree to pay Keepsake Digital Media reasonable legal expenses and third party collection agency fees in the enforcement of these Terms and Conditions.

Keepsake Digital Media retains all copyright for work performed until full project costs have been paid. Keepsake Digital Media reserves the right to reuse or resell work undertaken in the case of payment default.

Keepsake Digital Media accepts no liability or responsibility for loss of income or damage to the client for work removed from third party servers, as a result of non-payment and "The Client" will not take legal action for any situation arising from invoice disputes or removal of the disputed work in such cases.

### Disclaimer

Graphic design, strategy, photography, TVC, illustration and marketing are all highly creative and subjective art forms. As such Keepsake Digital Media take every possible care with professional advice offered and any suggested creative concepts and/or their implementation, however Keepsake Digital Media cannot be held responsible for variations between expectation and outcome.