

## The AIGA Standard Terms and Conditions for Designer/Client Relationships

by Emily Ruth Cohen

To satisfy the need for a friendlier and condensed alternative to the AIGA's existing Standard Form of Agreement for Graphic Design Services, the AIGA is pleased to launch a new, shorter document entitled The AIGA Standard Terms and Conditions for Designer/Client Relationships. This project evolved in response to the continued interest and support shown by the chapters and has been researched, organized, and written with extensive experience writing estimates and agreements for a wide variety of projects and clients in the graphic design profession.

This short agreement, when attached to a designer's project estimate and/or proposal, can be used as a written confirmation of terms and conditions between the designer and client. In order for the agreement to work effectively, the estimate/proposal needs to include certain important criteria and information. This information is described in an accompanying outline of instructions for appropriate usage of the standard terms and conditions. The "short agreement" was written to be friendly and understandable, while at the same time protecting the rights of both the designer and client.

The input of our members and AIGA's staff, combined with their commitment to creating a shorter form, helped this two-year project come to fruition. I'd also like to express my thanks to Alina Wheeler and Robert Meyer, whose earlier efforts and research helped launch this project. Additional thanks are due to lawyers James Silverberg and Tad Crawford, who reviewed the final versions and offered their professional advice and critique.

## **Instructions for Usage of AIGA Standard Terms and Conditions for Designer/Client Relationships**

In order for this agreement to work effectively, we have assumed that the designer will include the following information in his or her estimate/proposal. (Note: the following list includes examples of possible project criteria. However, each project will have unique requirements that should be outlined clearly in the estimate/proposal.)

### **Client's Name and Address**

- Name of Client Representative
- Date
- Designer's Name and Address
- Name of Project

### **Project Description and Specifications, such as:**

- Project goals
- Number of components
- Size
- Page count
- Colors
- Artwork requirements (including commissioned or stock artwork, photography, hand lettering, etc.)

### **Third-Party Relationships (such as Editorial Services)**

#### **Client Responsibilities**

A list or description of the materials/services client will be providing (such as copy on disk, proofreading, images, etc.)

#### **Project Stages, Responsibilities, and Presentations**

This is the most important part of the estimate/proposal and is crucial to future negotiations of additional services and costs not anticipated or described (see information

listed under “Services”). Following are suggestions for the kinds of information you may want to include (some information may not apply to your particular project):

- Project stages
- Number of sample pages, layouts, design solutions, etc. included in each design phase (and the outlined fee structure).
- Type of presentations included (rough thumbnails, black and white layouts, tight color comps, etc.)
- Number and complexity of revisions included within fee structure (such as quantity of pass pages, quantity and complexity of design revisions, type changes, etc.)
- Electronic versus camera-ready mechanicals, low- or high-resolution scans, etc.
- Production responsibilities (obtaining printing estimates, review of press proofs, on-press supervision, etc.)

### **Usage Rights**

The estimate/proposal should indicate any limitations on usage that the outlined fees are based on (i.e., limiting the allowable time of usage, the type of medium, the way the design/concept can be used, the geographical area to be exposed to the project, etc.)

### **Project Schedule**

The schedule should include delivery dates for each project stage as well as client approval dates for each stage. If a complete schedule cannot be determined when the estimate/proposal is written, then include any known scheduling information. For example, “The following estimate is based on a nonrush schedule of four weeks. A written schedule will be issued for the client’s approval before the project is begun.”

### **Project Fees (see “Out-of-Pocket Expenses”)**

Include all costs for the project stages, responsibilities, and presentations listed in the estimate/proposal. You may also include separate rates for undefined responsibilities, such as day rates for on-press or photo supervision, client meetings, and any applicable sales tax. For information on sales tax, speak with your accountant and local AIGA chapter. It may also be helpful, especially for longer or more complex projects, to list fees for each project

stage or responsibility. Pricing details will help determine any cancellation fees that may need to be assessed (see “Cancellation”).

### **Out-of-Pocket Expenses**

List out-of-pocket expenses that are not included in your fees, such as overnight couriers, messengers, travel costs, computer output (Iris prints, color lasers, linotronic output, film), supplies, etc. Provide an estimate of these costs or state that all such costs will be billed additionally. Indicate the percentage of your markup on these expenses (and which expenses are not marked up).

### **Payment Schedule**

A payment schedule should include all amounts due and the date payment is expected. We suggest that you include a payment schedule after the initial estimate/proposal has been approved. Typically, payments are either made in thirds or adjusted to reflect the project schedule (i.e., for smaller projects, one-half payments may be more appropriate; for larger projects, several monthly payments extended over the length of the project). Also, for client revisions, author alterations (AAs), and out-of-pocket expenses, include the payment terms (i.e., net thirty days). Payments are often due on a particular date or upon delivery (or approval) of certain project phases. The first payment should be due before any work begins on the project.

### **Additional Recommendations**

We suggest that you submit and negotiate the project estimate/proposal prior to attaching the terms and conditions and payment schedule for written confirmation. This allows the client to concentrate on and approve all the necessary project criteria before reviewing the additional terms and conditions.

We do not recommend that you use the form Standard Terms and Conditions for Designer/Client Relationships for complicated or long-term projects, which may require a lengthier contract. Such projects may include, but are not limited to, multimedia projects, signage programs, retainer-based relationships, etc.

Although we have researched the information extensively, we still recommend that you have the terms and conditions reviewed by your lawyer.

Ultimately, the designer is fully liable to the client for all the conditions outlined in

the short agreement, including providing the client with a summary of additional costs and services incurred, as the project progresses, that are above and beyond the agreed-upon criteria and fee structure.

## **AIGA Standard Terms and Conditions for Designer/Client Relationships**

### **Services**

The Designer agrees to provide all the services outlined in the attached estimate/proposal within the criteria specified. If, however, the client changes any of the criteria during the project requiring additional services, a revision/AA fee will be charged.

Additional services will include, but are not limited to, changes in the extent of work, changes in schedule, changes in the complexity of any elements of the project, and any changes made after client approval has been given for a specific stage of the project according to the agreed-upon schedule, including concept, design, composition, and production of mechanicals.

The Designer will keep the Client informed of additional services that are required and obtain the Client's approval for any services that cause the total fees to exceed those outlined in the attached estimate/proposal.

### **Schedules/Overtime/Rush Work**

The Designer reserves the right to adjust the schedule and/or charge additionally in the event that the Client fails to meet the agreed-upon deadlines for delivery of information, materials, approvals, payments, and for changes and additions to the services outlined in the estimate/proposal.

### **Client Approval**

The Client will approve and proofread all final designs and type before the production of mechanicals. The Client's approval of all tangible materials and artwork will be assumed after the work has been submitted to the client for review, unless the client indicates otherwise in writing.

### **Rights/Ownership**

All tangible materials in all circumstances remain the property of the Designer. All rights and ownership apply to preliminary concepts, works in progress, and finished material, whether the project is completed or canceled. The Client will be entitled to limited and

specific usage rights of such materials only for the purpose of reproduction, after which all materials will be returned, unaltered, to the Designer within thirty days of use.

Upon payment of all fees and expenses, the Designer will grant all reproduction and/or usage rights, as outlined in the attached estimate/proposal, for all approved final materials created by the Designer for this project.

If the Client wishes to make any additional use of the materials, the Client agrees to seek permission from the Designer and make such payments as are approved by the parties at that time. Where alterations or retakes are necessary, the Designer will be given the opportunity to make such changes at an agreed additional charge.

### **Electronic Files**

If the Client has requirements for how the project is to be prepared electronically, the Client must communicate this to the Designer before the project begins.

Electronic files and software documents related to the Client's project are the property of the Designer and must not be copied, altered, or modified without the written permission of the Designer.

### **Reimbursable Expenses**

Any budget figures or estimates for reimbursable expenses or implementation charges, such as out-of-pocket expenses, typesetting, printing, fabrication, or installation, are for planning purposes only. The Designer will use his or her best efforts to work within stated budgets but will not be liable if these expenses exceed budgets. When possible, no expenses in excess of the budget will be incurred without the Client's written or initialed approval in advance.

The Client will reimburse the Designer for all out-of-pocket expenses incurred by the Designer on this project. These expenses are listed in the attached estimate/proposal and will be billed at cost plus any surcharge indicated in the attached estimate/proposal for account handling and supervision. Upon the Client's request at the start of the project, records for out-of-pocket expenses will be retained by the Designer and will be made available to the Client upon completion of the project.

**Credit**

The Designer will have the right to include a published credit line on the completed designs or any visual representation. This same credit will be included in any publication of the design by the Client.

**Samples**

The Client will provide the Designer with samples of each printed or manufactured design. These samples will represent the highest quality of work produced.

**Payment Schedule**

Upon approval of this document, the Client will make all payment installments, as scheduled and outlined in our estimate/proposal. The Client will pay interest on all overdue amounts not exceeding the maximum amount allowed by law.

**Third-Party Contracts**

The Designer may contract with other individuals or companies acting on behalf of the Client to provide additional services such as writing, photography, illustration, printing, and fabrication. The Client agrees to be bound by any terms and conditions, including required credits and usage rights, with respect to reproduction of the materials that may be imposed on the Designer by these third parties.

**Cancellation**

In the event of cancellation of this assignment, a cancellation fee will be paid by the Client and will include full payment for all work completed, expenses incurred, and hours expended. The cancellation fee will be based on the prices outlined in the estimate/proposal. Any initial payments that have been received will be credited against any amounts due.

**Miscellaneous**

This document and the attached estimate/proposal represent the entire agreement between the Client and the Designer and may be changed or modified only in writing and with the approval of both parties.

The Client and the Designer represent that they have full power and authority to

enter into this agreement and that it is binding upon the Client and Designer and enforceable in accordance with its terms.

This Agreement will be governed by the law of the state in which the Designer's principal place of business is located.