

TERMS OF SERVICE

DARK EARTH DESIGN CO

PAYMENT

Deposits, final payments and delivery

I reserve the right to request up to a 50% non-refundable deposit prior to starting work on your project. If a deposit is requested, an invoice will be generated and delivered to you via email.

By paying this deposit you are accepting these Terms of Service and entering a contract with **Graham Day (Dark Earth Design Co)**.

A payment schedule will be outlined before the project begins. This may include a payment during the process after concepts have been agreed. I will invoice for the remaining cost of the project prior to the release of the final agreed deliverables. I reserve the right to withhold delivery until payment has been received in full.

All payments are to be made within 30 days of issue.

You may reserve the right to request a payment plan which may be accepted at my discretion. All payment plans must be agreed to both parties in writing.

I reserve the right to invoice prior to the time detailed if you have been uncontactable/unresponsive for more than 30 days.

I reserve the right to charge you for any fees incurred relating to commencement of collection and recovery processes for accounts that remain unpaid in excess of 30 days.

OWNERSHIP

All preparation materials, concepts, sketches, visuals, including the electronic files used to create the project are the property of **Graham Day (Dark Earth Design Co)**.

Final payment ensures that ONLY the agreed deliverables become your property. Any previously shown ideas/concepts remain mine, unless any prior agreement has been made.

If final payment is NOT received as agreed, all designs and concepts will remain the property of **Graham Day (Dark Earth Design Co)** until payment is received.

If there are issues with final payment, I reserve the right to reuse or amend any of these ideas for other clients, or to be used freely as concepts in my portfolio.

Should you attempt to use/modify/alter/replicate or steal any of my ideas without making the agreed final payment, I will take immediate legal counsel.

I reserve the right to show any ideas and designs created for this project in a portfolio as examples of client work. This is typically, but not limited to the completion of the project. If you have any specific secrecy or NDA requirements, please mention this before agreeing to the proposal.

You are free to change, modify and adapt the final deliverables as you wish, but you do so at your own risk.

INFORMATION SUPPLY

You agree to provide all copy/necessary information/assets/images required to complete the agreed-upon deliverables within the agreed timeframe.

If you fail to provide these within the allotted time, the work will be completed at the earliest opportunity, taking into consideration the availability of time and resources. If any of these are incorrect when supplied and have been used in the project already, it will count as an Amendment to change these over.

BAND/BRAND NAMING

You take full responsibility for ensuring that your company/band/product/business name is legally free/available before work is started. Should any legal issue arise with the naming after the project has been completed, no refunds are possible, neither am I legally responsible for any problems that arise.

Please ensure the name you are using is free and legally safe to use before committing to a project. If a change of name is required mid-way during a project, and significant branding exploration and/or design work has already been presented, then I will have no choice but to recalculate the total cost of the project, to allow for the reworking involved. Please ensure that the name you are using has been subject to appropriate checks, is not in use by someone else, and/or infringes on any other registered trademark, business name etc.

CANCELLATION

Cancellation during the project

If you choose to cancel the project midway through, where ideas and proposals have been submitted, refund of previous payment is not possible. However, depending on the work completed and overall budget, a portion of the funds may be returned.

If I fall ill, or am unable to complete the project due to unforeseen circumstances, a portion of the overall budget will be returned. In most cases the complete amount will be refunded. If any works, so far completed, can be used for another designer to pick up, then a percentage will be refunded based on work completed or any other reasonable suggestion will be considered.

Project Suspension

I reserve the right to suspend any project if there is interference with excessive micromanaging, demonstrating a continued lack of trust and inability to move forward after showing more than a reasonable number of unique ideas/concepts, and/or showing a reluctance in paying the final payment.

Project Termination

I reserve the right to terminate any project due to any form of abuse towards me personally and/or the work undertaken as part of the project.

If you are unresponsive to any communication sent, after 30 days the project will be terminated.

Fair notice will be given with a fair chance to remedy the situation without resorting to project suspension or termination. Any suspension, or termination, will not result in any refunds and all designs and work thus developed remain the full ownership of **Graham Day (Dark Earth Design Co)**.

In the event I fail to perform any obligation pursuant to these Terms of Service due to an "act of God" or an act of any government, terrorism, riot, war, accident or any deficiency in materials or transportation or any other cause of any nature beyond my control, such failure shall not be deemed to be a breach of these Terms of Service, provided that you are notified of the existence and nature of the reason for my non-performance and delay, and I resume performance immediately upon the conclusion of the relevant force majeure.

LIMITATION OF LIABILITY

Loss or damage

You agree and accept that **Graham Day (Dark Earth Design Co)** is not legally responsible for any loss or damage suffered or incurred related to use of any of my services, whether from amendments, errors or omissions in documents, designs, information or any goods or services offered by myself. This includes your use or reliance on any third-party content, links, comments or advertisements. Your use of, or reliance on, any information or materials I produce, amends or designs is entirely at your own risk, for which I shall not be liable.

You acknowledge that such information and materials may contain inaccuracies or errors and expressly exclude liability of **Graham Day (Dark Earth Design Co)** for any such inaccuracies or errors to the fullest extent permitted by law.

I affirm that all designs presented to you will be original and to the best of my knowledge will not infringe/plagiarise any other work. I will perform limited checks to ensure that my work has not unintentionally infringed on another's design. However, I assume no legal responsibility for any loss or damage suffered or incurred related to legal issues regarding the originality or authenticity of my work. You agree to perform your own checks and due diligence regarding plagiarism and originality. Should you have any concerns, please discuss this item with me prior to commencing work.

Trademark and Copyright

Due to the lengthy and often costly procedures required to initiate any form of Trademark, Copyright and legal name search, I am unable provide any practical help with this.

If you require any deliverable to be registered as a trademark, then you must seek your own legal advice. If there are any Trademark infringements in the future, you agree and accept that **Graham Day (Dark Earth Design Co)** is not legally responsible for any costs that may ensue and is not liable in any way.

FONTS & TYPEFACES

Licensing of any used fonts or typefaces

Any fonts/typefaces that are purchased for any of the deliverables within the project are subject to commercial licensing laws. A font/typeface licence gives **only** the owner full rights to use the font/typeface as necessary.

In my initial presentation of concepts, I will provide information of the typefaces used and where they can be acquired. It is the responsibility of the client to acquire any necessary font licenses (paid or unpaid), so please bear this in mind when approving designs.

It is against the law for me to provide any client a 'copy' of any font/typeface that I own, and have personally purchased.

If you would like to use a copy of a font/typeface that I have purchased, to be used commercially, you must purchase the respective font/typeface licence, and register it in your name.

Typically, a font used in a logo will not need to be licensed, as the graphics are converted to vector artwork and can no longer be edited. However, should you require a font to use in your own artwork for editing purposes, such as on a website or a print presentation, then you will need your own license through a desktop license purchase.