

Additional Terms and Conditions



5. **Intellectual Property.** Regardless of whether any of the materials and/or templates created as part of any past, present, or future work together are or could be defined as, "work for hire," and notwithstanding anything to the contrary in this agreement or otherwise, each party may use any and all such materials and templates:
 - a. As examples of that party's work product in its portfolio (for example, to be published as portfolio examples on LinkedIn and job search accounts and to be shown and distributed to prospective employers and contractors as examples of his work product).
 - b. As actual materials and templates, suitably modified to protect client confidentiality, for each party's work for and with other employers and contractors.

6. **Exclusivity of Engagement.** Each party to this Agreement declares at the time of signing this contract that they have no agreement or other engagement with any other person or company that might prevent her/him from carrying out this contract, and shall not unreasonably refuse the other party the permission to do other work not covered under this Agreement.

7. **Copyright Protection.** Notwithstanding anything to the contrary in this agreement or otherwise, each party retains the copyright(s) for its own marketing and promotional materials (i.e., materials developed in their

entirety by that party) in its/their entirety. This paragraph shall survive the termination of this Agreement.

8. **Independent Contractor Status.** All of the parties to this Agreement are independent contractors with each other and each agrees that she/he/it is **not** entitled to any unemployment compensation, worker's compensation, or any health insurance which the other party may provide for its employees. Each party is also **not** entitled to participate in any pension or profit-sharing plan of any other party, nor will **there be any** payroll deductions for state or local taxes, social security tax, unemployment compensation tax, or federal withholding tax made by or on behalf of any party. All fees that are required to be reported on to the Internal Revenue Service will be done so on a 1099 form at the end of the calendar year.

9. **Confidential Information.**

a. Each party hereby agrees that, as used herein, the term "Confidential Information" shall mean any and all information (whether written, verbal, or otherwise) provided or made available to any party by any other party including, by way of example and not limited to, any and all information which any Party otherwise learns, develops, creates or produces in the process of, or in connection with, the marketing to clients of the Confidential Information, including, but not limited to, any and all letters, agreements, legal analyses, reports, financial projections, lending relationships, itineraries, concepts, ideas, marketing and pricing strategies, new product or service ideas, methods, and procedures, whether on the internet or in any

other way, and other programs and techniques, provided that the term shall not include any information with respect to which any party can prove it lawfully possessed or was aware of prior to the time that such information was provided or made available to it by any other party.

- b. Each party shall hold and maintain in strictest confidence all Confidential Information, and all other materials whatsoever containing, summarizing, analyzing, or otherwise relating to the Confidential Information, regardless of whether prepared, acquired, or provided by any party to any other party, and each party shall take any and all action necessary or appropriate to protect and preserve the confidentiality and proprietary nature of the Confidential Information. Each party shall not disclose or permit the disclosure of any of the Confidential Information to any third party without the prior written consent of all other parties in each instance. Each party agrees to notify each client, or agent, to whom disclosure, authorized in advance by any other party, is made of the nature of the Confidential Information and shall be responsible for any disclosure of, or any use not authorized or permitted by, the terms of this Agreement by any such client, employee, or agent.
- c. Any and all Confidential Information delivered to any party, directly or indirectly, in connection with, or related to, the marketing to clients of the Confidential Information, (including, any information that either party learns or produces in the process of or in connection with the refinement, development, or marketing to clients of the Confidential Information) shall remain the sole property of the delivering party. All parties shall

not, without the prior written consent of all other parties in each instance, use or permit any person to use, examine, or make copies of, any Confidential Information. At such time that any party ceases to participate in the activities covered under this Agreement, or any time any party shall request, in writing or otherwise, then all Confidential Information, and all materials whatsoever continuing or relating to such Confidential Information, shall immediately be returned to the providing party, or, at that party's direction, immediately be destroyed. Each party agrees thereafter not to use any Confidential Information that it may have learned or otherwise produced during its participation in the process of refining, developing, and marketing to clients of the Confidential Information. All of the paragraphs in this section shall survive the termination of this Agreement.

10. Dispute Resolution.

- a. Mediation. In the event of any dispute, claim or controversy arising out of or relating to this Agreement, the parties agree to first participate in good faith mediation pursuant to the Mediation Association of Colorado CoMA, Inc. Expedited Rules of Mediation, with a mediator acceptable to them both. The designation of the mediator and mutual agreement shall be completed within seven (7) days of receipt of written demand for mediation by either party. If they cannot agree on the mediator, CoMA shall designate the mediator within three (3) days of the written request of any party. All issues resolved through the mediation

shall be reduced to writing and thereafter be binding as provided therein.

- b. Arbitration. In the event of any dispute, claim or controversy arising out of or relating to this Agreement not fully resolved through mediation, the parties agree to in binding arbitration before a single arbitrator, pursuant to the CoMA, Inc. Simplified Rules of Arbitration, with an arbitrator acceptable to them both. The designation of the arbitrator and mutual agreement shall be completed within seven (7) days of receipt of written demand for arbitration by either party. If they cannot agree on the arbitrator, CoMA shall designate the arbitrator within three (3) days of the written request of either party.
- c. Copies of these Rules are available upon request, and all procedures will be held in Denver, Colorado.

11. **Injunctive Relief**. It is specifically understood and agreed by all parties that the Confidential Information is of critical importance to the operations and interests of each party, and that any breach of the terms, covenants or conditions herein by any party will cause irreparable harm to all other parties that may not be reasonably or adequately compensated by damages. Therefore, in addition to monetary damages and any other remedies that may be available to any party, whether under this or any other Agreement between the parties, or by operation of law of in equity, each party agrees that all other parties' obligations hereunder shall be enforceable by injunctive relief, both preliminary and permanent. This paragraph shall survive the termination of this Agreement.

12. **Corporate Authorization**. Each party warrants that it has corporate authorization to enter into this contract and that any supplementary materials required to enforce this contract do not infringe upon the copyrights of others. This paragraph shall survive the termination of this Agreement.
13. **Indemnity**. Each party agrees to indemnify and hold all other parties to this Agreement, their officers directors, employees, agents, successors and assigns harmless for any damages, compensation, losses, expenses (including legal costs and any other costs associated with legal proceedings), fines, claims, penalties or other sums of whatever nature which any other party, its officers directors, employees, agents, successors and assigns, may incur as a result of or arising out of any negligent act, negligent omission, or breach of this Agreement by the offending party, its employees, servants or agents under its control. This paragraph shall survive the termination of this Agreement.
14. **Third Party Negligence**. Each party agrees that it shall not hold any other party to this Agreement liable for any injury, loss, damage or delay arising or resulting from the negligent acts or omissions of any third party organized, promoted or sponsored by any party to this Agreement. This paragraph shall survive the termination of this Agreement.
15. **Force Majeure**. Any delay or failure in the performance by any party to this Agreement shall be excused if and to the extent caused by the occurrence of a Force Majeure. For the purposes of this Agreement, a Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise

caused by or under the control of the party claiming Force Majeure, including but not limited to acts of god, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism, accident, governmental action or restrictions, injunctions, labor strikes, other than those of the parties to this Agreement, that prevent either party from performing its obligations under this Agreement, and other like events that are beyond the reasonable anticipation and control of the party affected thereby, despite such party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a party's failure to perform its obligations under this Agreement.

16. **Successors**. This Agreement shall be binding upon and inure to the benefit of the parties and to the parties' heirs, administrators, successors, transferees and assigns.

17. **Governing Law**. This Agreement shall be construed and legally interpreted in accordance with the laws of the State of Colorado, and any dispute concerning fulfillment of this agreement shall be litigated in a court of competent jurisdiction. All parties hereby consent to jurisdiction and venue in the courts of Denver County and the State of Colorado. In the event an action or proceeding is initiated by a party in an improper venue, such party agrees to pay the other party's costs and reasonable attorney fees associated with defending such action or proceeding in the improper venue. In any suit, proceeding or action to enforce any term, condition or covenant of this Agreement or to procure an adjudication or determination of the rights of any of the parties, the substantially prevailing party shall be entitled to recover

reasonable sums from the other parties as attorneys' fees and costs and expenses in connection with such suit, proceeding or action, including appeal, which sums shall be included in any judgment or decree entered herein.

18. **Waiver of Breach.** The waiver of any breach of any provision of this Agreement or failure to enforce any provision hereof by any party shall not operate or be construed as a waiver by any party of any subsequent breach by any other party.
19. **Severability.** If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the parties.
20. **Entire Agreement.** This Agreement constitutes the entire agreement among the parties regarding the subject matter hereof and supersedes all prior or contemporaneous agreements or understandings. Further, this Agreement may not be modified except in a writing signed by each party and specifically referring to this Agreement. A signature on a facsimile will be deemed to be an original signature.