

Terms

“Agency” refers to any staff or paid representative of Oncore Strategy, a Tennessee business of Third Coast Enterprises, LLC (Oncore, Agency)

“Client” refers to you.

“Services” or “Project” refers to any service or project deliverable, paid for by the Client, the Agency provides to the Client.

“Contract” refers to an overall “Project Service Agreement” or “Retainer Service Agreement” entered into by the Agency and the Client.

General Terms & Conditions

In commencing a design Project or Retainer Services Agreement with the Agency, or to use the Agency’s website hosting Services (“Hosting Services”), you warrant that:

1. You are legally capable of entering into binding Contracts.
2. You are at least 18 years old.
3. If you are acting on behalf of a Client or other business, you further warrant that you personally have the authority to bind that Client or business on whose behalf you are placing an order for Services with the Agency.

Rights & Ownership

Rights: All provided Services and final approved artwork, source code, and other tangible materials created during the Project provided by the Agency shall be deemed “Works Made for Hire” for the exclusive use of the Client. The Agency shall retain the right of promotional use of such materials, provided the Client has not explicitly deemed in writing that such materials are confidential and cannot be used by the Agency in such manner.

Upon payment of all fees and expenses as provided in the Contract, the following reproduction rights for all approved final designs created by the Agency for this Project shall be granted:

The Client to gain full transferable rights to brand identity.

The Client to gain full license to reproduce works through commercial printers.

Ownership: The Client shall be entitled to full ownership of all final approved artwork created during the Project upon full payment of expenses and the agreed fee as provided in the Contract. The Agency shall retain the right to use any and all non-approved, rejected Services artwork.

Confidentiality

The Client shall inform the Agency in writing before the Project commences if any portion of any material or information provided by the Client or if any portion of the Project is confidential.

Independent Contractor

The Agency and its employees and Affiliates are independent contractors and not employees of the Client. Therefore, they are not eligible for any employee benefit programs of the Client including but not limited to Workers Compensation, Disability Insurance or Unemployment Insurance. It is further agreed that individual employees of the Agency will not hold themselves out to be employees of the Client.

Third-party Contracts

The Agency may contract with other third-party creative professionals and non-creative service providers (“Affiliates”) to provide services such as web development, photography, illustration, printing, website management and website hosting. Some Services may include Project management costs.

Any third-party Affiliate terms and conditions will include full reproduction rights for the Client. Where such contracting adds to the Project cost, the Client will first be asked for permission to proceed. No Project will commence on the assumption that third

parties might be required for Project completion. Such details will be finalized prior to Project commencement, unless requested by the Client at a later date.

Some Affiliates may invoice the Client directly, independent upon any Contract. Client assumes all contractual, legal and financial obligations in agreements or contract made directly with third-party service providers.

Communication

The majority of Agency/Client communication is via email. This helps both parties keep track of specific design requirements and potential changes. The Client understands that this form of communication may not be absolutely secure, and in the absence of a written request from the Client, the Agency will presume that you consent to the use of email communication.

The Agency can be reached by telephone from Monday to Friday between 8:30 a.m. and 5 p.m. (CST). Video conferencing calls such as Zoom, Hangouts, or similar are welcomed if scheduled within these same hours.

Payment Schedule

Project Service Agreement: The Client will make a 50 percent down payment prior to Project work commencing, unless an alternative payment schedule has been agreed upon. The Project can be scheduled once the down payment is received by the Agency. The down payment is nonrefundable. The remaining amount is payable to the Agency based upon the Project Service Agreement terms, and if not specified by the terms of the Project Service Agreement, such final payment is due when approved Final Files are supplied to the Client.

Retainer Service Agreements: Monthly retainers provide flexible ongoing Client support at a discounted rate up to the number of hours set forth in the Retainer Service Agreement. Retainer fees are required in full in advance of Services. Payment is due on or before agreed billing cycle of each month. In each billing cycle, the Agency will notify the Client when hours reach 80% of the hours set forth in the Retainer Services Agreement, providing the Client the opportunity to prioritize deliverables within the remaining hours in the billing cycle. Services rendered beyond the retained number of hours will be billed at the full hourly rate set forth in the Retainer Service Agreement with payment due upon receipt of the applicable invoice. If payment is not received by the billing cycle due date, full standard hourly rates will apply for any work performed during that billing cycle, and monies received will be applied accordingly.

Payments

Project Service Agreement payments may be remitted electronically through [Viewpost](#), or by mailed check. Mailed checks shall be made out to "Oncore Strategy" and sent to: 231 Public Square, Suite 300 Franklin TN 37064-5078.

Retainer Service Agreement payments must be remitted electronically through [Viewpost](#). Any other money transfer services requested by the Client that include processing fees, those fees will be invoiced accordingly and shall be an expense of the Client.

Delayed Payment

If the final invoice is not paid within 30 days, a 5 percent "delayed payment" fee will be charged. An additional 5 percent delayed payment fee will be added for each recurring 30-day period until the full amount (including all delayed payment fees) has been received by the Agency.

Suspension for Non-Payment

If the Client fails to make payments or reimburse expenses when due, other than in connection with a good faith dispute of the amount owing or by reason of the breach of this Agreement by Agency, Agency may suspend performance of Services hereunder if such failure to pay continues for fifteen (15) days following written notice to the Client of such failure to pay.

Cancellation

If, after Project commencement, Client communication (face-to-face, telephone, or email) stops for a period of 90 days, the Project can be canceled, in writing by the Agency. A cancellation fee for work completed shall be paid by the Client, with the fee adjusted based on the stage of Project completion. If any remaining balance is not paid in full, ownership of all copyrights shall be retained by the Agency.

Scope

For Project Service Agreements, the scope of work is defined in the Contract. If, in the Agency's determination, the Client changes the Project scope, Agency will submit a revised Contract for Client approval.

Revisions

The Agency will begin the Services on the designated date and continue in a timely manner until the satisfactory completion of the Services for the Client. This includes a reasonable amount of changes requested by the Client and limited to no more than three (3) rounds. Additional changes beyond three (3) rounds of changes will be billed at the Service Agreement hourly rate terms.

Overages

For Project Service Agreements, the Agency will commit time and resources required to execute the agreed Services within the agreed timeline. Any Client changes or requests beyond the agreed Project deliverables will be billed at the Project Service Agreement hourly rate terms.

Expenses

Fixed costs exclusive of normal overhead are not included, e.g.: fonts, stock images, photography, modeling, props, wardrobe, 3D renderings, prototypes, video production, printing, manufacturing, shipping or related costs from either the Agency or its associates. Fixed costs expenses shall be pre-approved by the Client by email and will be included in the following month's invoice.

Quality

Subject to the other provisions of these Terms and Conditions, the Agency will strive to provide Services consistent pursuant to industry standards with reasonable professional skill and care ordinarily provided by firms practicing in the same or similar locality and industry under the same or similar circumstances ("Standard of Care").

The Agency will not be liable for a breach of the Standard of Care set forth above unless:

- The Client gives written notice of the breach to the Agency, and the Agency has a reasonable opportunity to examine the provision of Services in question.
- The problem arises because the Client failed to follow the Agency's oral or written instructions as to the use of the Services (if there are any).
- The Client alters the Services without the Agency's written consent.
- The problem arises because of Client misuse.

If the Agency is in breach of this Standard of Care in accordance with the clauses above the Agency retains the right to use all reasonable commercial efforts to remedy the breach promptly or refund the price of the Services at the pro rata Contract Price.

Indemnity

The Client agrees to indemnify and hold harmless the Agency and its officers, directors, agents, affiliates, distributors, representatives, and employees from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, errors and omissions including attorney's fees and costs, but only to the extent caused by, arising out of, the work supplied by the Agency.

Limitation of Liability

Under no circumstances shall either party be liable to the other party or any third party for indirect, incidental, consequential, special or exemplary damages (even if that party has been advised of the possibility of such damages), arising from any provision of these Terms of Service and Conditions or any Contract, such as, but not limited to, loss of revenue or anticipated profit or lost business, costs of delay or failure of delivery, or liabilities to third parties arising from any source.

Copyrights

The Agency shall include copyright notice (or any other notices requested by the Client) on the designs as per Client's written request.

The Client represents and warrants to the Agency that the Client owns (or has a legal license to use) all photos, text, artwork, graphics, designs, trademarks, and other materials provided by the Client for inclusion in the Designs, and that the Client has obtained all waivers, authorizations, and other documentation that may be appropriate to evidence such ownership. The Client shall indemnify and hold the Agency harmless from all damages, losses and claims, including attorney fees and legal expenses, that may result by reason of claims by third parties related to such materials.

Back-ups

Requesting historical Project artwork from back-up files more than one-year old may incur a de-archiving Service fee.

Website Hosting

The Agency does not warrant that our Hosting Services will be uninterrupted or error free, but we shall take commercially reasonable efforts to keep any downtime to a minimum.

Hosting Services Liability

The Agency does not monitor and will not have any liability for your material or any other communication you transmit by virtue of the Hosting Services. Due to the public nature of the Internet, we shall not be liable for the protection of the privacy of electronic mail or any other information transferred through the Internet or via any network provider. No guarantee or representation is given that any

Hosting Services will be free from security incidents or unauthorized users. All conditions, terms, representations and warranties that are not expressly set out in these Terms of Service and Conditions (or the documents referred to in them) are hereby expressly excluded.

Hosting Services Duration & Cancellation

Upon commencement of the Hosting Services, the hosting service will continue on an annual basis until terminated:

- by you, the Client, informing the Agency of your decision to cancel the Contract. This should be via an email sent to keith@oncorestrategy.com
- by the Agency giving you at least 30 days advanced notice in writing sent from the then current email address registered against your account
- To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired. We request that you do this at least two working days before the cancellation date.

The Client cannot cancel any Hosting Services by letter or telephone.

The annual price for Hosting Services the Agency supplies under Contracts that continue on an annual basis shall be charged annually in advance.

If the hosting charge is not paid by the due date of the invoice for the annual charge for the hosting, we will deactivate the hosting package. In this case, if the hosting charge is not paid within 7 days we will terminate the Contract.

If a hosting package is deactivated due to non-payment of the hosting invoice, the Agency will not be responsible for the following types of losses (in each case whether direct, indirect or consequential) and whether they are caused by our negligence or otherwise:

- loss of income or revenue.
- loss of business.
- loss of profits or Contracts.
- loss of anticipated savings.
- loss of goodwill.
- loss of software or data.
- wasted expenditure (such as pay per click advertising costs).
- wasted management or office time.

The Agency will not provide you with a refund for a cancellation that is part-way through a billing period.

Without prejudice to any other right to terminate or suspend the Hosting Services, the Agency may terminate the Contract at any time by giving you 30 days' advance notice by emailing you at the email address registered against your account.

If the Agency cancels the Services, we will refund to you the price you have paid for the Hosting Services on a pro-rata basis for the unexpired period.

Notwithstanding anything to the contrary in these Terms and Conditions, if you are in breach of an obligation of these Terms and Conditions we may terminate the Contract by 7 days' notice to you.

Expiration or termination of the Contract shall be without prejudice to any rights and liability of either of us arising in any way under that Contract at the date of expiration or termination.

Deletion of Your Data

If you cancel your Hosting Services, any data the Agency holds or hosts in relation to the Services you have canceled will be immediately and permanently deleted from our system. Accordingly, you are strongly advised to make appropriate copies of such data before you cancel your Services.

Events Outside Our Control

The Agency will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by events outside our reasonable control ("Force Majeure Event").

A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- misuse, alteration or interference by you or any third party of our servers or systems (including virus and hacker attacks);
- strikes, lock-outs or other industrial action;
- civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- fire, explosion, storm, flood, earthquake, subsidence, epidemic, pandemic, or other natural disaster;
- impossibility of the use of public or private telecommunications networks; and
- the acts, decrees, legislation, regulations or restrictions of any government.
- The Agency's performance under the Contract will be deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. The Agency will make commercially reasonable efforts to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

Miscellaneous

Samples: The Client shall provide the Agency with samples of print design that result from the Project. Such samples shall be representative of the highest quality of work produced. The Agency may use such copies and samples for publication, exhibition, or other promotional purposes.

Promotions: The Agency shall have the right to photograph or video all completed designs, installations or Projects and shall have the right to use such images for publication, exhibition, or other promotional purposes, unless the Client has explicitly deemed in writing that such materials are confidential and cannot be used by the Agency in such manner.

Termination

Either party may terminate this Agreement at any time by providing 14 business days advance written notice. In the event of such termination, the Client may be obligated to pay a kill fee for actual services provided by the Agency plus any outstanding expenses. In case of termination, the Agency will make every commercially reasonable attempt to finish work in progress within the service hours covered under the Contract and turn over all related files to the Client. The Contract will terminate upon completion of the Services and Client payment processed.

Entire Agreement

These Terms of Service and Conditions, along with the Contract, embodies the entire understanding between the parties and supersedes and replaces any and all prior understandings, arrangements and agreements, whether oral or written, relating to the Services. These Terms of Service and Conditions, along with the Contract may only be amended, modified or supplemented in writing and agreed to by each party.

Assignment

The Contract is not assignable, in whole or in part, by either party without the prior written consent of the other party. Any attempt to make such assignment shall be void.

Governing Law and Jurisdiction

The Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflicts of law provisions. The parties consent to the personal jurisdiction of the State of Tennessee; acknowledge that venue is proper in any state court in Williamson County, Tennessee or federal court in Davidson County, Tennessee; agree that any action arising out of or related to these Terms of Service and Conditions and the Contract must be brought exclusively in a state court in Williamson County, Tennessee or federal court in Davidson County, Tennessee; and waive any objection either party has or may have in the future with respect to any of the foregoing.

Counterparts

The Contract may be executed in two or more counterparts, each of which shall be deemed an original and which taken together with these Terms of Service and Conditions, shall constitute one and the same Contract. A facsimile or PDF copy of an executed counterpart signature page will be as valid as an originally executed counterpart, and electronic signatures on the Contract shall be deemed a valid and binding execution of the Contract.