

KUNVAY

ESCROW AND TRANSFER AGREEMENT

This Escrow and Transfer Agreement (the "Agreement") is a multi-party legal agreement by and among the developer of the intellectual property (the "Creative"); the buyer of the intellectual property (the "Buyer"); the designated recipient of the intellectual property, if any (the "Designated IP Recipient"), and Kunvay LLC ("Kunvay") having a principal business address of P.O. Box 201150, New Haven, CT 06520-1150. The Creative, the Buyer, the Designated IP Recipient, and Kunvay may be individually referenced as the "Party" or collectively referenced as the "Parties." This Agreement consists of the signature page and the attached Terms and Conditions, which both form part of this Agreement and are incorporated by reference. Each Party agrees that it has read, understood, and consented to this Agreement in its entirety, and that the Effective Date of this Agreement will be understood to be the date on which the last signature is provided below.

Name of Creative: _____

Name of Buyer: _____

Name of Designated IP Recipient (if any): _____

Description of Assigned Intellectual Property:

Designs Photos Written Text

Additional Description of Assigned Intellectual Property: _____

File Names: _____

Project Room Names: _____

Agreement Accepted By:

"Creative"

"Buyer"

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

"Designated IP Recipient" Approver

"Kunvay"

Printed Name: _____

Printed Name: Kunvay LLC

Title: _____

Date: _____

Date: _____

Terms and Conditions

1. **Eligible Intellectual Property.** Kunvay's current policy is to limit the categories of intellectual property ("IP") eligible for transfer to design work, photos, and written text (the "Copyrighted Works"). The description of the Copyrighted Works to be transferred pursuant to this Agreement is provided on the signature page and incorporated by reference into this Agreement (the "Assigned IP").
2. **Upload of Copyrighted Works.** If you are the Creative, you agree to upload the Copyrighted Works to the project room on or before the one (1) year anniversary following the Effective Date of this Agreement. You further agree and acknowledge that all files uploaded to the project room will be assigned to the Buyer or the Designated IP Recipient.
3. **Creative's Representations.** If you are the Creative, you agree to the following:
 - (a) You lawfully possess all right, title, and interest to the Copyrighted Works;
 - (b) With respect to the Copyrighted Works, you have the right and authority to grant to Buyer or the Designated IP Recipient the rights as provided in this Agreement;
 - (c) You have secured any releases necessary to assign all rights as set forth in this Agreement;
 - (d) The Copyrighted Works are not subject to any other lien, assignment or encumbrance; and
 - (e) The Copyrighted Works placed in escrow are the full and final version of such Copyrighted Works.
4. **Release Condition.** Upon Kunvay's receipt of payment from the Buyer, Kunvay will release the Copyrighted Works to the Buyer or the Designated IP Recipient, and all right, title, and interest in the Copyrighted Works will be assigned to the Buyer or the Designated IP Recipient.
5. **Warranty; General Disclaimer.** If you are the Buyer and/or the Designated IP Recipient, you agree and acknowledge that the services Kunvay provides through this Website do not include filing copyright registrations or assignments with the U.S. Copyright Office, or performing any assessment as to whether any work can be registered with the U.S. Copyright Office. You agree that you will solely be responsible for making any and all copyright registration or assignment filings, and for conducting any and all due diligence regarding the Copyrighted Works. In addition, you agree and acknowledge that Kunvay's services do not ensure that any Creative receives the agreed upon payment for his or her services, and that you are solely responsible for ensuring that the Creative is paid in full upon his or her completion of the work.

TO THE EXTENT PERMITTED BY LAW, KUNVAY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF QUIET ENJOYMENT AND NON-INFRINGEMENT AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE
6. **Limitation of Liability; Consequential Damages.** If you are the Creative, the Buyer, or the Designated IP Recipient, you agree that we will not be liable to you for any indirect, consequential, special, punitive, or exemplary damages, arising out of or in connection with this Agreement, including but not limited to damages for loss of profits, loss of

goodwill, loss of business opportunities, loss of use, lost data, or other intangible losses (even if we have been advised of the possibility of such damages). You further agree that Kunvay's liability for all claims in the aggregate will in no event exceed the greater of the aggregate amount of all fees actually collected by Kunvay pursuant to this transaction. Some jurisdictions do not allow the limitation of liability, so these limitations may not be applicable to you.

7. **Indemnification.** If you are the Creative, the Buyer, or the Designated IP Recipient, you jointly and severally agree to indemnify, defend, and hold Kunvay and its officers, members, managers, employees, independent contractors, representatives, and agents harmless against any and all losses, costs, damages, expenses, claims, or attorneys' fees suffered or incurred by Kunvay as a result of this Agreement and/or your relationship with Kunvay, including but not limited to damages, costs, expenses, suits, judgments, litigation costs, and attorneys fees.
8. **Release of Claims.** If you are the Creative, the Buyer, or the Designated IP Recipient, you jointly and severally agree to the maximum extent permitted by law to release and waive all claims against Kunvay and its officers, members, managers, employees, independent contractors, representatives, and agents, including any and all liability for damages (actual or consequential), costs and expenses (including litigation costs and attorneys' fees) of every kind and nature arising from or in any way related to this Agreement. If applicable, you waive your rights under California Civil Code Section 1542, which states, "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."
9. **Governing Law; Dispute Resolution.** You agree that this Agreement will be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of law principles. All disputes arising under this Agreement will be submitted to binding arbitration under the Commercial Rules of the American Arbitration Association in New Haven, Connecticut by one arbitrator mutually agreed upon by the Parties in accordance with the aforementioned Rules, except that if any Party is located outside the United States, then the dispute will instead be submitted to binding arbitration in New York, New York under the Rules of the International Chamber of Commerce. Each Party will bear its own attorneys' fees and share equally in the payment of arbitrators' fees; provided that, however, you agree to be solely responsible for all fees and expenses incurred in any proceeding challenging the enforceability of this Agreement after the transaction has been concluded. The arbitration award shall be final and each Party agrees to comply in good faith to the entry of the arbitrator's award in any court having jurisdiction. If judicial enforcement or review is sought, then the prevailing Party will be entitled to costs and reasonable attorney's fees.
10. **Fees.** Buyer will be responsible for the payment of all fees as set forth in Kunvay's service fee list, which is posted to our website and incorporated by reference into this Agreement.
11. **Term and Termination.** The term of this Agreement is one (1) year following the Effective Date. If the payment for escrow services is not received in full by Kunvay within one (1) year following the Effective Date, Kunvay may terminate this Agreement for nonpayment. Either Party may submit payment to Kunvay to resolve such delinquency. Kunvay will have no obligation under this Agreement as long as any fee is delinquent. In the event that the fees are charged back for any reason, Kunvay may terminate this Agreement for material breach. In the event of termination for any reason, Kunvay will return the Copyrighted Works to Creative, or if Creative cannot be found, Kunvay may destroy the Copyrighted Works.

12. **Miscellaneous.**

- (a) **Entire Agreement.** This Agreement embodies the entire understanding among the Parties with respect to the assignment of the Copyrighted Works to Buyer, and supersedes all previous oral or written communications, representations, or understandings.
- (b) **Correspondence.** All correspondence shall be delivered to the Parties at their respective email addresses provided upon registration with Kunway. The Parties shall be responsible for notifying each other in the event of any change in their designated contact information. The Parties will have the right to rely on the last known email address of the other Parties.
- (c) **Other Third Parties.** Kunway's obligation will be exclusively to the Parties designated in this Agreement. The Parties will have the right to collectively modify or cancel this Agreement upon their collective, written consent. No modification to this Agreement will be valid or binding unless signed by the Parties.
- (d) **Severability.** In the event that any provision of this Agreement is found to be invalid, voidable, or unenforceable, the Parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability, or unenforceability will affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question will be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.
- (e) **Successors.** This Agreement will be binding upon and shall inure to the benefit of the successors and assigns of the Parties. Kunway will have no obligation in performing this Agreement to recognize any successor or assign of Creative unless Kunway receives authoritative and conclusive written evidence of the change of Parties.
- (f) **Regulations.** Creative is responsible for and warrants compliance with all applicable laws, rules, and regulations, including but not limited to customs laws, import, export, and re-export laws and government regulations of any country from or to which the Copyrighted Works may be delivered in accordance with this Agreement.