Shain Mayer
Web Design by Shain
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 480.268.0806 webmaster@shainmayer.com

<u>My Commitment to you</u>
 i) We respect our Client's confidentiality (Item 7).
ii) We use open source solutions wherever possible. This means no vendor lock-in and software fees are charged at 'fair and reasonable rates' or in most cases, fees are not applicable (Item 12.1).
iii) If the CLIENT determines that the website does not comply with the project components agreed to in this document, My Company agrees to carry out any necessary and reasonable modifications without extra charge (Item 19).
iv) If the CLIENT is not happy with our service, the CLIENT is free to move their domain name, website and data in its entirety to another service provider (Item 20.1).

<u>Introduction</u>
This document defines the terms and conditions of our working relationship. Unless otherwise agreed to in writing by both the parties, the terms of this Agreement will commence on the date specified. All services that My Company may be contracted to produce or provide for Clients Actual Name (referred to as CLIENT) will be subject to the following: Definitions As used herein and throughout this Agreement:
"*Agreement*" means the entire content of this Basic Terms and Conditions document, the Proposal document(s), Schedule(s), together with any other Supplements designated below, together with any exhibits, schedules or attachments hereto.
"*Content*" means all materials, information, photography, writings and other creative content.
"*Copyrights*" means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under American and International Copyright Law.
"*Deliverable's*" means the services and work product specified in the Proposal to be delivered by My Company to the Client, in the form and media specified in the Proposal.
"*Services*" means all services and the work product to be provided to Client by My Company as described and otherwise further defined in the Proposal.
"*Trademarks*" means trade names, words, symbols, designs, logos or other devices or designs used in the Final

<u>Deliverable's.</u>
"*Open Source Software*" means computer software that is available in source code form for which the source code and certain other rights normally reserved for copyright holders are provided under a software license that permits users to study, change, and improve the software.
"*Ongoing Management*" means the ongoing work to keep the website functioning and secure. This includes, but is not limited to: data management, backups, maintenance, upgrades and software patches.

<u>General Terms</u>

1. Authorization

The CLIENT authorizes My Company to perform the services outlined in this agreement on the CLIENTS' behalf, which may include, but is not limited to, accessing their hosting account and disk space, creating databases and applications, and submitting the project to search engines. Accessing their domain host account and credit card processing account if e-commerce platform is schedule.

2. Agreement Scope and Period

Services supplied, costs and rates are limited to what is specifically set forth in this agreement. Any additional services will require an additional agreement. We reserve the right to adjust our service and rates after this period.

3. Costs and Fees

Changes and additions outside of the scope of this document will be quoted and invoiced to the CLIENT. The CLIENT will be advised of all costs, changes and additions before commencement of the additional work. Fees for professional services do not include outside purchases such as, but not limited to, software licensing, copyright licensing, printing, photography, color printouts, laminating, illustrations, shipping and handling or courier service. Expenses are itemized on each invoice. Expenses are subject to MST.

4. Production Schedules

Production schedules will be established and adhered to by both the CLIENT and My Company. Where production schedules are not adhered to by the CLIENT, final delivery date or dates will be adjusted accordingly. Additional costs may be charged for CLIENT delays, if the delays result in an increase in time to manage or deliver the services.

5. Overtime

Estimates are based on a reasonable time schedule, and may be revised to take into consideration the Client's requested "Priority Scheduling". Requested priority schedules that require overtime and weekend work will be subject to 60% markup at an hourly rate. Overtime is defined as between 6.00pm – 9.00am Monday to Friday, all day Saturday, Sunday and public holidays, unless otherwise agreed.

6. Payment

6.1 The CLIENT agrees to pay My Company in accordance with the terms specified in each proposal/estimate. The CLIENT will be required to pay 50% of the project cost before commencement of work. Unless otherwise specified, all subsequent balances due are payable upon completion of key stages of the project.

6.2 If the CLIENT fails to pay any invoice, My Company reserves the right to withdraw the website and associated materials or refuse completion and/or delivery of work until past

due balances are paid. All materials or property belonging to the CLIENT, as well as work performed, may be retained as security until all just claims against the CLIENT are satisfied. My Company will charge a late payment fee of 5% per month on the outstanding amount. The CLIENT is responsible for any debt collection fees which may come due.
6.3 In the event of cancellation of the project prior to completion, the CLIENT must pay My Company a fee for work completed, based on the contract price and the expenses already incurred.

7. Confidentiality
My Company will not disclose to any third party or use, other than for the purposes of this agreement, any knowledge or information imparted to or obtained by it during or in connection with the fulfillment of this agreement, which is of a secret or confidential nature relating to the business, equipment, processes, products, services or business strategies offered or employed by the CLIENT.
This obligation of confidence will cease to apply in relation to information that My Company is required to disclose by any law, or which becomes part of the public domain other than as the result of a breach by My Company of its obligations of confidence under this Agreement.

8. Subcontractors My Company reserves the right to assign subcontractors or external suppliers. Any subcontractors or external suppliers will be bound to the terms of this agreement.

9. Promotion
My Company is confident that the CLIENT's expectations will be exceeded and as such is notifying the CLIENT that My Company reserves the right to use the CLIENT's website, associated graphics and any unused ideas and development in the promotion of My Company services. The CLIENT agrees to allow My Company to retain a credit and link from the footer of the website.

10. Copyright
The CLIENT is responsible for all trademark, service-mark, copyright and patent infringement clearances. The CLIENT is also responsible for arranging, prior to publication, any necessary legal clearance of materials My Company uses for this project. The CLIENT indemnifies My Company against any loss or damage arising directly or indirectly from any unauthorized use of photographs, text, or other Intellectual Property not under copyright ownership of the CLIENT.

11. Project Copyright

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11.1 After acceptance of the website and payment of all sums due by the CLIENT, My Company agrees to assign perpetual and unrestricted copyright to use any materials produced by My Company as outlined in this agreement to the CLIENT including exclusive usage rights to unique graphics.

11.2 My Company reserves all rights over working and source files. The CLIENT does not have the right to resell, reuse or re-purpose any design or content supplied as part of this agreement unless specified.

11.3 My Company reserves all rights to license (open source) and release all software code including website templates developed under this agreement.

12. Open Source Software

12.1 My Company makes extensive use of open source software and components to supply websites and services to the CLIENT. My Company will not charge additional licensing fees on open source software.

12.2 The CLIENT indemnifies My Company against any loss or damage arising directly or indirectly from any failure of software supplied to the CLIENT.

12.3 All software and components not developed by My Company retain the original license and terms associated with them. My Company cannot assign any rights to the CLIENT and the CLIENT agrees to be bound by the original Author's terms.

13. Force Majeure

My Company shall not be deemed in breach of this Agreement if My Company is unable to complete the Services or any portion thereof by reason of fire, earthquake, labor dispute, act of God, death, illness or incapacity of My Company or any local, state, federal, national or international law, governmental order or regulation or any other event beyond My Company's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, My Company shall give notice to the CLIENT of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of the Services.

14. Limitation of Liability

The services and the work product of My Company are sold "as is." In all circumstances, the maximum liability of its Designers, Directors, Officers, Employees, Design Agents and Affiliates ("My Company parties"), to the CLIENT for damages for any and all causes whatsoever, and the CLIENT's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to the net cost of this project as specified in this Agreement. In no event shall My Company be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by My Company even if My Company has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

15. Termination

Either party may terminate this Agreement by giving 30 days written notice to the other of such termination. In the event that work is postponed or terminated at the request of the CLIENT, My Company shall have the right to bill pro rata for work completed through to the date of that request, while reserving all rights under this Agreement. If additional payment is due, this shall be payable within fourteen days of the CLIENT's written notification to stop work. In the event of termination, the CLIENT shall also pay any expenses incurred by My Company and My Company shall own all rights to the work. The CLIENT shall assume responsibility for collection of all legal fees necessitated by default in payment.

16. Domain Names

16.1 All domain names are legally owned by the CLIENT. All domain name registrations are subject to availability and registration rules. The CLIENT manages their domain(s) and payment of fees unless the CLIENT requests in writing that My Company manage the domain name(s) on behalf of the CLIENT. My Company will invoice the CLIENT when fees are due.

16.2 My Company uses GoDaddy Operating Company, LLC to manage our CLIENTS's domain names. CLIENTS are bound by the GODADDY "Domain name registration terms" which are found on their website: www.godaddy.com

16.3 The CLIENT indemnifies My Company against any loss or damage arising directly or indirectly from any failure of services provided by the REGISTRAR.

17. Hosting

17.1 The CLIENT is responsible for contacting the chosen host for support relating to hosting matters. My Company will charge for costs incurred liaising with the hosting company and supporting the CLIENT with hosting related issues.

17.2 My Company will charge for costs incurred due to differences in hosting environment if installation and management exceeds standard time frames.

17.3 My Company will host website free of charge for 6 months from launch date. After 6 months has passed the CLIENT can relocate to another hosting provider. Or incur a $10 per month hosting fee.

18. Browser Variance

Our Websites are optimized for XHTML compliant browsers and adjusted to support Internet Explorer (IE). We test using the browsers that are statistically the most commonly used. Layout and aesthetic elements may change or degrade in some browsers. Websites are tested on Internet Explorer versions 7 and 8 (PC) Latest version of Firefox (Mac) Latest

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version of Safari (Mac) Latest version of Chrome (Mac) My Company will test and optimize for additional browsers and versions if requested by the CLIENT before commencement of the project.

19. Colors

Website visitors use different monitors with different settings. Colors and image quality of the website including graphics and photography will shift between computers and monitors.

20. Testing and Acceptance of the Website

Once the project has, in the opinion of My Company been completed, My Company will notify the CLIENT either verbally or in writing, and provide the CLIENT with an opportunity to test and review the website. If the CLIENT determines that the website does not comply with the Project Components agreed to in this document, My Company agrees to carry out any necessary and reasonable modifications without extra charge.

21. Website, Data and Security

21.1 Upon the end of this agreement, The CLIENT is free to transfer their website management to another service provider. My Company will supply the last backup of the site and associated data. My Company will take all reasonable actions to transfer the CLIENT'S domain name to a new registrar.

21.2 Ongoing Management (see definition) is not included in this agreement and will require an additional agreement.

21.3 If The CLIENT does not proceed with an additional or Ongoing Management agreement, The CLIENT is responsible for Ongoing Management of the website and indemnifies My Company against any loss or damage arising directly or indirectly from website downtime or security breaches.

22. Client Responsibilities If the CLIENT or an agent of The CLIENT other than My Company attempts to update, edit or alter the site's pages, infrastructure, source files or hosting management in a way that causes damage to individual pages or the site's architecture, time to repair web pages will be assessed at our STANDARD or OVERTIME hourly rate, and is an additional cost above the costs outlined in this agreement.

23. Errors and Omissions It is My Company's responsibility to check carefully for accuracy in all respects, ranging from spelling to technical illustrations. However My Company is not liable for errors or omissions. The CLIENT indemnifies My Company against any loss or damage arising directly or indirectly from any errors and omissions.

24. Revisions

My Company will provide two rounds of revisions of content after the submission of the content, before the website is completed. Extended revisions outside of this scope will be charged under "Content Management" rates.

25. *Copy* All text must be supplied in digital format (TXT, RTF, HTML, MS Word, Open Office, InDesign).

26. *Images* Graphics and photographs are to be supplied in digital format to My Company. Photographs must not exceed a file size of 5mb each (unless by prior arrangement). Larger files will incur an extra cost due to increased time in processing.

27. *Branding* All logos and branding must be provided in a industry standard vector format (preferences are: EPS, PDF, Illustrator).

Schedule 1
Costs and Fees Strategy and planning: $000
Project Management: $000
Installation and configuration: $000
Content management and production: $000
Setup Total $0000

Schedule 2
Time Frames
Project Start Date 00/00/00
Content Due Date 00/00/00
Draft Website Due 00/00/00
Revisions Due 00/00/00
Website goes live 00/00/00

_____ _____/_____2015
CLIENT Signature Date

_____ _____/_____2015
My Company Signature Date

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