

Terms and Conditions

At **WebDev**, we carry our job with professionalism and pride. Our terms and conditions below are set to give you confidence and peace of mind on our professional services. If there is any term or condition that prevents you from dealing with us, we will look at it, and if reasonable, will consider its exclusion as part of our agreement.

The following terms and conditions apply to all Website design and related services offered by **WebDev**. By ordering services from **WebDev** you are agreeing to the following terms and conditions.

1. Ethical Issues

1.1 We reserve the right to refuse to provide services for a website or related services which does not accord with our ethical policy or that we judge to be unfit due to content or otherwise. This includes, but is not limited by, sites containing adult oriented material such as pornography, sites which promote hatred towards persons belonging to any ethnic group, religion or sexual orientation and sites which infringe copyright or are contrary to the United States of America or other relevant national or local laws or regulations

2. Contract Commencement

2.1 The contract between **WebDev** and the **client** shall consist of the proposal with its specifications, quotation and these terms and conditions

2.2 It may not be necessary to have a signature for the contract to commence, verbal communication, email communication or other exchange making it clear that the work specified is required to be carried out shall constitute commencement of the contract and a contractual agreement between the **client** and **WebDev** shall exist based on the proposal with its specifications, quotation and these terms and conditions. For formality, **client** is required to sign approval section of the proposal and return to **WebDev** address for filing purposes

2.3 **WebDev** cannot always guarantee to start work immediately on a commission but will arrange a date with the **client** as to when work can commence. An anticipated finishing date will be agreed and **WebDev** will do its best to adhere to that but cannot guarantee to do so in the light of circumstances outside its control. Where in the instance that a time scale has been agreed, **WebDev** will not be responsible for any consequential losses to the **client** if the deadline is not met.

3. Design Standards, Web Standards, Accessibility

3.1 **WebDev** makes every effort to design pages to current web standards and thus display well in the most popular current browsers, but cannot accept responsibility for pages that do not display acceptably in new versions of non-web standard browsers

4. Development Process

4.1 **WebDev** will provide a draft of the design on its own server during development so that the **client** may view and comment upon the progress. When the website meets the specifications set out in the quotation with its specifications, **WebDev** will invoice the **client** for the full amount due or the amount otherwise specified in the approved proposal & quotation

4.2 On receipt of payment, **WebDev** will publish the website on the **client** 's server, or provide

- the source code for the site via a download (or CD-ROM disc) for the **client** to upload
- 4.3 Where in the instance that a time scale has been agreed, **WebDev** will not be responsible for any consequential losses to the **client** if the deadline is not met
- 4.4 **WebDev** uses its best endeavors to ensure the website and other services remain functional at all time. However, **WebDev** cannot guarantee or warrant that the functions and content of the website or other services will be uninterrupted or error-free. Any problems will be dealt with as speedily as is appropriate to the content and function of the website and may be chargeable at our normal rate during working hours and at double that rate outside normal working hours.
- 4.5 Once the website and other services meet the terms of the quotation with its specifications any modifications to the design will be considered an amendment to the contract. In the absence of a maintenance agreement the time and costs involved in making such changes will be charged to the **client**
- 4.6 In the absence of a maintenance agreement, **WebDev** will fix all errors notified to **WebDev** in writing within thirty days of the site being put live on the Internet. If errors are reported after more than thirty days the time and costs involved in making such changes will be charged to the **client**.

5. Copyright

- 5.1 All material, both text and images supplied by the **client** and used in the construction of the **client's** Website, will remain the **client's** property. All such material will be assumed to be the property of the **client** and free to use without fear of breach of copyright laws. The **client** shall indemnify **WebDev** against all and any claims arising from the use of materials of any sort provided by the **client** or obtained under the direction of the **client** from third parties such as graphic designers
- 5.2 The copyright for all material provided by **WebDev**, such as HTML code, graphics, photographs and text, will remain the property of **WebDev** until such time as payment has been made in full. They will then become the property of the **client** with copyright shared between the **client** and **WebDev**. This allows either party expeditiously to pursue any copyright infringement. Should the **client** wish to retain exclusive copyright this shall be arranged but the copyright of **WebDev** shall only be assigned if done so expressly and in writing to the **client**.
- 5.3 All technologies, techniques and aspects of the site not directly related with this particular site implementation will remain with developers or other parties who already own them

6. Testimonial, Reference and Links

- 6.1 **WebDev** and its sub-contractors retain the right to display graphics and other Web design elements as examples of their work in their respective portfolios
- 6.2 **WebDev** and its sub-contractors retain the right to refer other prospective **clients** to your website as testimonial or reference material.
- 6.3 **WebDev** reserves the right to a reasonable credit on the website with a hyperlink to its own website. This would normally be on a contact page or somewhere accessible but no obtrusive

7. Search Engine Submission and Results

- 7.1 **WebDev** will submit a **client's** website to the major search engines
- 7.2 Further work based on keyword popularity analysis, search engine optimization based specifically around your organization and its 'competition' is best carried out by specialist contractors. This can be arranged but is not part of the contract unless specifically included in the quotation. Any subsequent amendments to the website as a result of professional analysis may be charged to the **client**

7.3 **WebDev** can accept no responsibility or liability if any search engine, online directory or search site chooses not to list a **client's** Website.

8. **Payment**

- 8.1 A non-refundable payment of 25 per cent of the total fee is due with order, unless otherwise agreed, in which case payment is due upon completion of site. Whilst any payment due under the agreement remains outstanding, **WebDev** shall be entitled at its sole and absolute discretion to withhold provision of any goods or services it would otherwise be obliged to provide under the agreement
- 8.2 To put it another way: full payment is due once the underlying structure and architecture is set up and ready - whether or not the website has been uploaded to a server. **WebDev** shall not be expected to wait for items that are the **client's** responsibility before payment is due
- 8.3 **WebDev** expects payment by check, electronic bank transfer or cash within the terms specified in the approved Proposal or Quotation
- 8.4 All payment currency is in US Dollars. Payment in foreign currency may be accepted only if specified in the approved Proposal or Quotation of which a sum sufficient to cover exchange commission and charges and any other additional expenses incurred has been added to the amount due
- 8.5 Any payment returned by the bank or credit card company will incur a \$60 administration charge in addition to any charges made by the bank. This will be invoiced and will be added to the total outstanding debt owed by the **client**
- 8.6 In case collection proves necessary, the **client** agrees to pay all fees (including all legal fees and court costs) incurred by that process
- 8.7 If for any reason whatsoever we are unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product

9. **Website Maintenance**

- 9.1 Where **WebDev** undertakes to maintain or update a **client's** website a system of communication will be established that meets the needs of both the **client** and of **WebDev** to carry out the maintenance to a service level agreed
- 9.2 Payment for maintenance is usually by monthly fees paid in advance and is reviewed and renewable annually. Where the **client** cancels a maintenance contract with less than six months' notice, there will be charge of six months' fees
- 9.3 Where **WebDev** cancels a maintenance contract other than for a reason set out in Cancellation and Termination below, a refund of the fees appropriate to that part of the month remaining will be made
- 9.4 In instances where the **client** does not come to a Website management agreement it is the sole responsibility of the **client** to manage the site. **WebDev** will no longer be responsible for the site upon completion unless an alternative agreement has been reached
- 9.5 To assist the operation of a website maintenance contract an account project log will be set up to allow **client's** administrator to contact **WebDev** directly with technical problems

10. **Unforeseen and Additional Costs and Expenses**

- 10.1 The transfer of domain names to another server can sometimes become a complex and time-consuming matter. All administrative fees to third parties and the time taken to organize the transfer will be charged to the **client** irrespective of any quoted amount set out in the quotation with its specifications
- 10.2 Additional costs incurred in the provision of: stock photography; electronic commerce software; online transaction processing solutions; domain name registration; web space; Internet connection provided by third parties are non refundable

10.3 Additional features to websites, including extra database services, specific hosting requirements, animations that are not included in the quotation are subject to surcharge. In the event a feature is required which has not been included in the quotation **WebDev** will give notice prior to implementation and seek acceptance of the surcharge. The cost will be added to the final invoice

11. **Domain Name Research and Registration**

11.1 Where the **client** requests **WebDev** to research and register a domain name the domain name will always be the property and in the control of the **client**. If, for whatever reason, this is not possible then the **client** will be informed of the fact. All fees and costs incurred will be included in the quotation and payable by the **client**

12. **Website Hosting Services**

12.1 Hosting services - where your website is stored on a server for delivery to website visitors - and email services are provided under a contract between the **client** and the chosen hosting and email provider (Internet Service Provider (ISP)) and will be bound by the terms and conditions of that ISP. **WebDev** makes no commission on such recommendations or services and in recommending an ISP does so in good faith and cannot under any circumstances be held responsible or liable for any shortcomings or losses incurred as part of that contract

13. **Data Protection**

13.1 Where the operation of the website or other services provided by **WebDev** involves the collection and administration of personal data the **client** is deemed to be the Data Controller

13.2 The **client** shall indemnify **WebDev** against any actions, costs and liabilities arising from the use in good faith by **WebDev** of personal data provided by the **client** or through the **client**'s website

13.3 Where your website involves e-commerce functionality, the **client** must ensure that suitable arrangements are in place to maximize security levels with regard to financial and personal information relating to the users of the website and other services. This may necessitate the use of secure electronic protocols, authentication certificates, encryption et cetera and may require the provision of secure server facilities and/or the use of a credit card clearing service

13.4 Where a service is provided relating to e-commerce whereby visitors to the **client**'s website can order goods or services through the website - whether through direct or indirect payment the **client** undertakes to ensure that all transactions are carried out legally and fairly, that the security of personal information and of financial information is maintained and that the collection and control of that data meets the requirements of the Data Protection Acts and regulations

13.5 The **client** is solely responsible for complying with any laws, taxes, and tariffs applicable in any way to the website or any other services contemplated, and will hold harmless, protect, and defend **WebDev** and its sub-contractors from any claim, suit, penalty, tax, fine, or tariff arising from the website or other services provided

14. **Email Newsletters and Marketing**

14.1 Where **WebDev** provides services relating to management of email newsletters and other email marketing, payment is usually by quarterly fees paid in advance and is reviewed and renewable annually

14.2 Where **WebDev** provides email newsletter services we shall adhere to the legal requirements - to the best of our ability and shall not condone or support any activity

related with indiscriminate spamming of email addresses

15. **Sub-Contracting**

15.1 If necessary **WebDev** reserves the right, and the **client** hereby agrees, to allow the use of sub-contractors or agents to work on any aspect of the website or other services

16. **Consequential Losses**

16.1 If for any reason whatsoever **WebDev** is unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product

16.2 The entire risk as to the quality and performance of the website or other services is with the **client**. In no event will **WebDev** be liable to the **client** or any third party for any damages, including, but not limited to, service interruptions caused by acts of nature, the hosting service or any other circumstances beyond the control of **WebDev**, any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to operate the website or other services, failure of any service provider, of any telecommunications carrier, of the Internet backbone, of any Internet servers, your or your site visitors' computer or Internet software, even if **WebDev** has been advised of the possibility of such damages

17. **Proposals and Quotations**

17.1 Proposals and Quotations are valid for thirty days from the date on the proposal or quotation unless otherwise specified in the proposal or quotation. All prices quoted may be subject to change after this period

18. **Advice and Consultancy**

18.1 Any advice given in respect of software, hardware, programming, design, purchasing, hosting, training, upgrading, installing or any other advice, suggestion, recommendation or otherwise of any product or service provided by us or by a third party, whether introduced by us directly or indirectly is accepted by you as an opinion and as such you agree that prior to acting on any of the aforementioned that you will first obtain professional advice. You further agree to indemnify us of all liability with regard to any decision or action performed by you that may or may not be a direct or indirect result of any contact or dealing with us

18.2 Our consultancy service and general advice is, by its nature, subjective. It is up to you whether you decide to follow our ideas and suggestions. It is not possible and we do not guarantee that any of those ideas and suggestions will increase traffic to your site, improve your ratings with search engines or boost sales

19. **Right to Assign**

19.1 This Agreement is personal to you and you may not assign it without our prior express written consent. Should you transfer ownership of the website as part of a transfer of ownership of a business then the new owners will need to come to a new agreement with **WebDev**

20. **Communication and Site Visits**

20.1 **WebDev's** preferred method of communication is by email. Invoices will be sent by email and shall form a legal document just as if sent by traditional post

20.2 Extensive site visits should not be necessary and the majority of design approval will be undertaken using the Internet, electronic files or other means. In the absence of a maintenance agreement which will set out site visit arrangements, visits requested by the

client beyond that which **WebDev** considers reasonable will be quoted separately and payable by the **client** at reasonable man-hour rate (including traveling time) plus reasonable travel expenses not less than the actual costs incurred.

20.3 The design process will be undertaken by online project portal communication. In addition, telephone conferencing, sample Internet design publication on **WebDev**'s website, file design submission on computer disk, or other method as appropriate to the **client's** will be utilized in particular circumstances

21. **Cancellation and Termination**

21.1 **WebDev** may, by written notice, terminate the Agreement between us immediately upon the happening of any of the following events: You fail to pay any invoice which has become due; you commit a material breach of any of the terms of the Agreement between us; you enter into or propose a voluntary arrangement or composition with your creditors or reconstruction of your debts or your directors make a declaration of solvency for the purpose of a members' voluntary winding up, or if notice is given of a creditors' meeting in connection with a creditors' winding up, or if a special resolution is passed that you be wound up by the court, or if an administrative or other receiver is appointed, or if the court makes and administration order or order that you be wound up by the court, or if you cease to carry on business or are unable to pay your debts within the meaning of the Insolvency Act

21.2 Should **WebDev** decide to terminate the agreement between us immediately upon the occurrence of one of the above circumstances, we reserve the right to exercise any other rights which we may have against you

21.3 We reserve the right to remove from the Internet any website or other service which we display on your behalf upon the occurrence of one of the above circumstances

21.4 Should we terminate the Agreement upon the occurrence of one of the above circumstances, we will not refund to you any monies paid by you to us

21.5 If at any point during the development a **client** wishes to cancel, they may do so but will be invoiced up to the full amount quoted based on the degree to which the work has been completed and on the extent to which time has been allocated to the project that cannot be effectively used to generate revenue that would be otherwise lost

21.6 If a maintenance agreement is terminated for any of the reasons mentioned above a fee equivalent to six months charges will be payable

21.7 In the event that **WebDev** terminates a maintenance contract for any other reason, a refund equivalent to the unused portion of the current payment period will be the maximum liability

22. **Waiver and Interpretation**

22.1 Should **WebDev** waive any of these terms on an individual basis, this shall not affect the validity of remaining clauses or commit **WebDev** to waive the same clause on any other occasion

22.2 These terms and conditions shall prevail over all terms and conditions of your customary practice or any previous course of dealing between us and you

22.3 Any variation to these terms and conditions shall be inapplicable unless agreed between ourselves before we commence any work on your behalf

22.4 Work, services or products are only supplied in strict accordance with these terms and conditions. The provision of work, services or products by us is only undertaken on the understanding that you have read and accept these terms and conditions in full

22.5 By agreeing to these terms and conditions your statutory rights are not affected

22.6 This contract shall be governed and construed in accordance with the laws of the United States of America and the Parties hereby agree to the exclusive jurisdiction of the US

Courts

- 22.7 No terms or conditions endorsed upon, delivered with or contained in the **client's** purchase order, confirmation of order, specification or other document will form part of the contract simply as a result of such document being referred to in the contract
- 22.8 The **client** must ensure that the terms of its order and any applicable specification are complete and accurate