

# **WEBSITE DESIGN SERVICES AGREEMENT**

**Last Updated: January 27, 2018**

In addition to the terms and conditions provided at just99webdesign.com, the following additional terms and conditions shall apply to purchases of Website Design Services ("Website Design Services," as further defined below).

## **1. Description of Website Design Services**

- a. We will build a website (hereinafter referred to as the "Website") for the customer ("you" and/or the "Customer") based upon direction and input provided to us by you. The services referenced in this Section may be collectively referred to as the "Website Design Services." Subject to the terms and conditions of this Agreement and during the term of this Agreement, Just 99 Web design (the "Company") agrees to provide to you the Website Design Services described on the just99webdesign.com Website and purchased by you during the order process. For security purposes the customer or end user will not be granted access to our servers and/or FTP Access, Full Content Management System Settings will be disabled and access to install plugins will be disabled. (The Company reserves the right to amend its website Design Services offerings and to add, delete, suspend, or modify the terms and conditions of such Website Design Services at any time and from time to time, and to determine whether and when any such changes apply to both existing and future customers.
- b. You hereby grant to the Company and its vendors and subcontractors all necessary rights and licenses with respect to your Website or logo created by Just 99 Web design in order to carry out its obligations under this Agreement and to make a reasonable number of archival or back-up copies as deemed necessary by Just 99 Web design. The Company is not responsible for archiving documents, graphic work, physical goods or web pages created for client or documents, graphic work, physical goods or files which are mailed, email or faxed to the Company. The Company is not responsible for returning any files, documents or physical goods emailed, faxed or mailed to us.
- c. As part of the Website Design Services, your design may be dictated by an Order Form and/or Statement of Work (the "SOW"). This level of service is an offering whereby you can request that the Company design and create a Website for you using sophisticated graphics, advanced layouts, and other features. You will receive a custom Website designed and developed by the Company. Although the Company will custom design your Website, your Website may contain some features and design elements used in other Websites designed by the Company. If your design falls into this group, in addition to the terms and conditions set forth in this Agreement and this Section, you shall be bound by the terms of the SOW which shall be prepared by the Company and mutually agreed to by you and the Company. The SOW may contain, but may not be limited to, a list or description of the services our designers will provide you as part of the Website Design Services, a list of technical, graphic, or other special features that will be

incorporated into your website, applicable fees and payment schedule, and a description of any applicable cancellation fee or policy. This SOW shall become a part of this Agreement and shall be subject to all terms and conditions of this Agreement.

## **2. Your Obligation**

In order for the Company to perform the Website Design Services in accordance with this Agreement, you shall be responsible for doing the following:

- a. Providing the Company with all information requested by the Company as well as any custom images (including, but not limited to, design, pamphlets, brochures, logos, and other images) that you wish to use in connection with development of your Website;
- b. Contacting the Company promptly to make changes, modifications, and enhancements to your Website starting from the date of sale;
- c. Contacting the Company promptly with notice of your decision to cancel or discontinue the Website Design Services starting from the date of sale;
- d. Obtaining Internet connectivity to access your Website, to send and receive email, and to otherwise access and utilize the Internet;
- e. To the extent that you gather any personal information about visitors to your Website, you will not share that personal information with any third party without first obtaining the visitor's consent;
- f. Ensuring that the Website content provided by you does not infringe or violate the intellectual property rights (including, but not limited to, trademarks, trade names, copyrights, patents, domain registration rights, and trade secrets) or any other right of any third party (including, but not limited to, rights of privacy and contractual rights), and acquiring any authorization(s) necessary to use intellectual property or other proprietary information of third parties. By using the Website Design Services, you represent and warrant that any name or word submitted to be used as all or part of the URL associated with your Website does not infringe any trademark or domain name rights of any third party;
- g. Ensuring the accuracy of materials provided to the Company, including, without limitation, website content, descriptive claims, warranties, guarantees, nature of business, and contact information for you;
- h. Responding promptly to various requests necessary for the project to move forward in a timely manner. During any stage of the design process, a designer or project manager will be working with you to gather information to start, feedback to revise, or approval to complete your website. If a response is not received from you for more than sixty (60) days, the design project is considered "abandoned" and payment is surrendered in full. the Company reserves the right to charge you a fee for repeated missed consultations, repeated rescheduling of consultations

related to any website design work, and/or the reinstatement of your Website design to an active status if no response has been received from you for 30 days; and

- i. Following the timeline of activities provided to you by the Company, if any.

### **3. Information and Content You Provide**

If you provide any information that is untrue, inaccurate, incomplete, or not current, or we have reasonable grounds to suspect that such information is untrue, inaccurate, incomplete, or not current, the Company has the right to suspend or terminate your account and refuse any and all current or future use of the Website Design Services (or any portion thereof). You acknowledge that the Company does not pre-screen content, images and/or inventory. You agree that you must evaluate, and bear all risks associated with the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content. In this regard, you acknowledge that you may not rely on any content created by the Company or submitted to the Company.

### **4. Non-Interference**

You will use the Website Design Services in a manner which does not interfere with or disrupt other network users, services, or equipment, and the Company reserves the right to terminate or suspend the Website Design Services without notice if such interference is determined by the Company to exist. Such interference or disruption includes, but is not limited to:

- a. Wide-scale distribution of messages, including bulk email or unsolicited spam email, or wide-scale distribution of messages to inappropriate mailing lists, newsgroups, or other public or private forums;
- b. Propagation of computer worms or viruses; and
- c. Use of the network to make unauthorized entry to other computational, information, or communications devices or resources. This includes unauthorized security probing activities or other attempts to evaluate the security integrity of a network or host system without permission.

### **5. Unauthorized or Inappropriate Use**

- a. the Company reserves the right to deny, terminate, or suspend Website Design Services without notice if, in the Company' sole discretion, the Website Design Services are used by Customer in a manner that violates or may violate the following standards, and the Company reserves the right to reject, alter, modify, or remove your website, website domain name, URL address, or any website content (including, but not limited to, any language, words, text, photographs, designs, drawings, graphics, images, symbols, or logos) which the Company in its sole discretion deems to be (i) an infringement on or a mechanism designed to facilitate the infringement of a propriety interest of any third party, including without

limitation, any copyright, trademark, domain registration right, trade secret, or patent right, or (ii) stating or implying that the Website is placed by the Company or any party with a contractual relationship with the Company, or that such parties endorse the your products or services, or (iii) pornographic or obscene.

- b. The Company neither sanctions nor permits hosted site content or the transmission of data that contains illegal or obscene material or fosters or promotes illegal activity. The Company reserves the right to immediately suspend or terminate any site or transmission that violates this policy, without prior notice. In the event of such termination, Customer agrees that the unused portion of any fees Customer may have paid for any services rendered to Customer by the Company are an appropriate recompense to the Company for the time required to respond to and address issues created by your illegal or obscene site/content, and Customer agrees not to seek recovery of those fees. Further, should Customer violate this Agreement, the Company will actively assist and cooperate with law enforcement agencies and government authorities in collecting and tendering information about Customer, your Website, the illegal or obscene content, and those persons that may have inappropriately accessed, acquired, or used the illegal or obscene content.

## **6. Additional Indemnification Obligations**

In addition to your indemnification obligations set forth elsewhere in this Agreement, you agree to defend, indemnify, and hold harmless the Company and each of its officers, directors, employees, agents, affiliates, co-branders, or other partners, and employees of any of the foregoing, from, against, and in respect of: (i) any and all losses, damages, or deficiencies resulting from any third party claim in connection with your website (including, but not limited to, website content) or the URL, and (ii) all costs and expenses incident to any and all actions, suits, proceedings, claims, demands, assessments, or judgments in respect thereof regardless of the merit thereof, including reasonable legal fees and expenses (whether incident to the foregoing or to the Company' enforcement of said rights or defense and indemnity).

## **7. Ownership of Your Content**

- a. As between you and the Company, all content provided by you to the Company for inclusion to the Website shall remain the sole and exclusive property of Customer. Customer acknowledges that all content is owned by Customer or that Customer has a legal right to such content. You are responsible for any and all claims related to the content. After the initial thirty (30) days following the launch of the Website (*i.e.*, 30 days after the Website goes live), Customer shall be granted rights to the domain name Customer selects for use with the Website (the "Domain Name"), however the Company makes no representations whatsoever with respect to the rights to any Domain Name that Customer provides for use with the Services. The Company can also not guarantee availability of any desired Domain Name. Customer will further be responsible for all claims related to your use of the Domain Name.

- b. With the exception of your interests with respect to your content and rights to the Domain Name as identified in the previous paragraph, ownership interest to the Website, including, but not limited to the HTML coding, scripting, copyrights, and all other intellectual property rights, shall remain exclusively with the Company and the Company grants you a non-exclusive, revocable license to use these design elements and related applications provided you are current with respect to the service fees and not otherwise in breach of the Agreement. The Company shall also have the right to display your Website on its online properties as an example of the design work the Company is able to provide for its customers.
  
- c. Upon termination of the Services, should Customer desire to obtain ownership rights to the Website, Customer must obtain express written permission from the Company and Customer shall further remit a fee to Company for the assignment of these rights to the Website. Upon such express written permission, the fee to be remitted for assignment will be reasonably determined by Company according to the extent of HTML coding and design associated with the Website. This assignment to Customer of ownership rights to the Website shall be limited to the actual portions of the Website visible on the Internet and its underlying HTML coding as developed specifically for Customer by the Company, and shall be sent to Customer via compact disc within thirty (30) days of remitting payment, but this assignment shall not include any rights to the Company' software, trade secrets, methodologies, processes, proprietary functions, know-how, and all intellectual property including, but not limited to, all copyrights, trademarks, patents, and trade secrets related to the Company' products or services, which shall remain the sole and exclusive property of the Company and its respective suppliers, affiliates, partners, and/or licensors. For all images that are part of the Website and assigned to Customer hereunder, Customer is granted permission to only use those images in the manner in which it is provided to Customer by the Company (i.e. embedded in the Website) and no other use of the images is permitted whatsoever. Moreover, upon assignment the Company does not warrant the portability or functionality of the Website in any way to or on any platform, hosting or otherwise, that is not provided by the Company. Following the termination of the Services, provided such termination occurs after the initial thirty (30) days following the launch of the Website (i.e. 30 days after the Website goes live), and provided Customer is not otherwise in breach of the Agreement, Customer will retain their rights to the Domain Name. If Customer cancels their Services within the first thirty (30) days following the launch of the Website, Customer acknowledges and agrees that the Company and/or an entity designated by the Company will retain rights to the Domain Name, unless Customer had provided the Domain Name themselves for use with the Services. Furthermore, in any instance where Customer retains rights to the Domain Name following termination of the Services, Customer will be responsible for all fees, costs, and claims related thereto, whereby the registration of Domain Name, and any ancillary Domain Name related services (such a private registration) must be renewed prior to expiration at the then-current rates to prevent such services from expiring.

## **8. Fees and Payment Terms**

Fees for the Website Design Services selected by you will be on a pre-paid basis, due and payable at point of sale (meaning at the beginning of the project) and then on a recurring basis, in advance of each billing cycle, throughout the term of the Agreement as set forth in the SOW. You also agree to follow the timeline set forth by the Company in the SOW, if applicable.

You agree to give us permission to automatically debit your recurring monthly payment with the billing information you provided. If we do not receive the monthly payment for your Website and you have exceeded the 10 (ten) day grace period, your Website will be removed from the Internet. All Website Design Services are month-to-month and can be cancelled. If you cancel, your Website will be removed from the internet immediately.

You may cancel any transaction, without any penalty or obligation, at any time before midnight of the third day which begins after the transaction is completed. To cancel a transaction, cancellations must be received in writing by e-mail directed to support@just99webdesign.com before midnight of the third day which begins after the transaction is completed. No Refunds will be made for requests received after this time frame. All refunds will be issued in the same form payment was made. Please allow 7-10 business days.

To cancel recurring monthly charges you must notify us by email a minimum of 25 business days before your next draft day. If we do not receive your notice 25 business days before your next draft day no refund will be given however we will stop recurring charges until you authorize us to start drafting from your account again.

In the event legal action is necessary to collect on balances due, you agree to reimburse us for all expenses incurred to recover sums due, including attorney fees and other legal expenses. In all situations, our liability is limited only to amounts paid to us.

## **9. Suspension and/or Termination**

If you breach any term of this Agreement including, but not limited to, the terms of this Section, the Company may, in its sole and exclusive discretion, suspend or terminate your Website Design Services immediately and without notice to you. In addition to your obligation to pay any set up and applicable fees for the Website Design Services, fees for the Website Design Services may continue to accrue on suspended accounts and you will continue to remain responsible for the payment of any fees for Website Design Services that accrue during the period of suspension.

## **10. Modifications and Quotes**

The prices and modifications agreed to in any SOW are unique to you. Any SOW prepared for you is valid for thirty (30) days from the date it is provided to you and will become void thereafter. If any change or alteration is made to the SOW, the Company may issue to you a revised SOW and may require you to purchase additional Website Design Services, which may be billed to you at an hourly rate.