

# WEBSITE DESIGN AGREEMENT

This Website Design Agreement (“Agreement”), is made effective as of \_\_\_\_\_, 2019 by and between [CLIENT NAME] (“Client”), having an address at [CLIENT ADDRESS] and [WEBSITE DESIGN COMPANY NAME] (“Designer”) having an address at [WEBSITE DESIGN COMPANY ADDRESS], (collectively “Parties”).

1. **Scope.** This Agreement sets forth the terms and conditions whereby Designer agrees to produce a certain Website (as described below) for Client. Designer will be engaged solely and exclusively for the limited purpose of providing this Website for the Client. Neither party is, by virtue of this Agreement, authorized as an agent, employee, or legal representative of the other. Except as specifically set forth herein, neither party shall have the power to control the activities and operations of the other and its status at all times will continue to be that of an independent contractor relationship.

2. **Description of Services and Warranties.** The Client hereby engages the Designer, and the Designer accepts such engagement to provide the following Website services for the Client (hereinafter, the “Website”): [DETAIL DESCRIPTION OF WORK TO BE COMPLETED IN SDESIGNING AND DEVELOPING THE WEBSITE]. Designer represents and warrants that Designer has the knowledge, skills, and experience necessary to produce the Website. Designer agrees that the Website will be original. Designer also guarantees that the final Website will be free from any plagiarism or likeness to a Website not belonging to or created by Designer. The Website will become the intellectual property of Client, free and clear, as a work made-for-hire. The deadline for the completed Website to be delivered to the Client is as follows: [DEADLINE FOR DELIVERY OF WEBSITE]. Designer may be engaged or employed in any other business, trade, profession, or other activity which does not place Designer in a conflict of interest with the Client, provided, that, during the term, Designer shall not be engaged in any business activities that compete with the business of the Client without the Client’s prior written consent.

In addition to the standard development and creation of a website, the Client has requested the following specific requirements:

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3. **Schedule.** The Parties agree to the following schedule:

- a. Initial Draft Date: \_\_\_\_\_.
- b. Client Comment/Approval Date: \_\_\_\_\_ not to exceed 14 days from delivery of initial draft.
- c. Final Design Date: \_\_\_\_\_.
- d. Client shall be entitled to \_\_\_\_ revisions. Any revisions beyond \_\_\_\_ shall be chargeable at a rate of \$\_\_\_\_\_.

4. **Payment.** The Parties agree to the following Payment and Payment Terms:

- a. Total Fee for Services: \_\_\_\_\_
- b. Upfront Fee (Due Before Project Start Date): \_\_\_\_\_
- c. Addition fees, costs and expenses may be invoiced in the event that additional revisions above item 3(d) are requested.

5. **Confidentiality.** During the course of this Agreement, it may be necessary for Client to share proprietary information, including trade secrets, industry knowledge, and other confidential information, to Designer in order for Designer to complete the Website in its final form. Designer will not share any of this proprietary information at any time, even after the Agreement is fulfilled. Designer also will not use any of this proprietary information for his/her personal benefit at any time, even after the Agreement is fulfilled.

6. **Ownership Rights.** Client continues to own any and all proprietary information it shares with Designer during the term of this Agreement for the purposes of the Project. Designer has no rights to this proprietary information and may not use it except to complete the Project. Upon completion of the Agreement, Client will own the final website design. While Designer will customize Client's Website to Client's specifications, Client recognizes that websites generally have a common structure and basis. Designer continues to own any and all template designs it may have created prior to this Agreement. Designer will further own any template designs, HTML code widgets, CSS, Javascript or other embedded code it may create as a result of this Agreement.

7. **Credit.** Client shall credit Designer's names on Works created hereunder in a manner agreed to by the Parties in writing prior to the release of the Works to the public.

8. **Indemnification.** Designer and Client shall each defend, indemnify, and hold the other harmless (including all affiliates, officers, directors, employees, agents, successors, and assigns) from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from bodily injury, death of any person, damage, real or intangible, to personal property resulting from the other's acts or omissions or the breach of any representation, warranty, or obligation under this Agreement.

9. **Representations and Warranties.**

a. Designer. Designer represents and warrants that he/she has the right to enter into and perform this Agreement. Designer further represents and warrants that he/she has the right to utilize and distribute the designs created for Client and that such designs are not owned by anyone else to Designer's knowledge. In the event that Designer does not have these rights, Designer will repay any associated damages Client may experience or will take responsibility so that Client does not experience any damages.

b. Client. Client represents and warrants that is has the rights to use any proprietary information, including, but not limited to trade secrets, trademarks, logos, copyrights, images, data, figures, content, and the like that it may provide to Designer to be included in this Website. In the event that Client does not have these rights, Client will repay any associated damages Designer may experience or will take responsibility so that Designer does not experience any damages.

10. **Disclaimer of Warranties.** Designer shall create a Website for Client's purposes and to Client's specifications. DESIGNER DOES NOT REPRESENT OR WARRANT THAT SAID WEBSITE WILL CREATE ANY ADDITIONAL PROFITS, SALES, EXPOSURE, BRAND RECOGNITION, OR THE LIKE. DESIGNER HAS NO RESPONSIBILITY TO CLIENT IF THE WEBSITE DOES NOT LEAD TO CLIENT'S DESIRED RESULT(S).

11. **Limitation of Liability.** UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY DAMAGES RESULTING FROM ANY PART OF THIS AGREEMENT SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFIT OR LOST BUSINESS, COSTS OF DELAY OR FAILURE OF DELIVERY. **Survival.** Any provision of this Agreement which by its terms imposes continuing obligations on either of the Parties shall survive termination of this Agreement.

12. **Dispute Resolution.** In case of a dispute between the Parties relating to or arising out of this Agreement, the Parties shall first attempt to resolve the dispute personally and in good faith. If these personal resolution attempts fail, the Parties shall then submit the dispute to binding arbitration. The arbitration shall be conducted in the county and state noted in the GOVERNING LAW provision of this Agreement. The arbitration shall be conducted by a single arbitrator, and such arbitrator shall have no authority to add Parties, vary the provisions of this Agreement, award punitive damages, or certify a class. The arbitrator shall be bound by applicable and governing federal law as well as the law of Ohio. Each Party shall pay their own costs and fees. Claims necessitating arbitration under this section include, but are not limited to: contract claims, tort claims, claims based on federal and state law, and claims based on local laws, ordinances, statutes or regulations. Intellectual property claims by Designer will not be subject to arbitration and may, as an exception to this sub-part, be litigated. The Parties, in agreement with this sub-part of this Agreement, waive any rights they may have to a jury trial in regard to arbitral claims.

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of [STATE] without giving effect to any choice or conflict of law provision or rule. Each party irrevocably submits to the exclusive jurisdiction and venue of the federal and state courts located in [COUNTY NAME] county in any legal suit, action, or proceeding arising out of or based upon this Agreement or the Works provided hereunder.

14. **Benefit.** This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, and to their respective heirs, representatives, successors, and assigns.

15. **Counterparts.** This Agreement may be executed in counterparts, all of which shall constitute a single agreement. The Agreement shall be effective as of the date set forth above.

16. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement. All notices shall be delivered by email or at the address which the parties may designate to each other through personal delivery, nationally recognized overnight courier (with all fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only if (a) the receiving party has received the Notice and (b) the party giving the Notice has complied with the requirements of this Section.

17. **Force Majeure.** Designer is not liable for any failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, acts of civil authorities, acts of military authorities, riots, embargoes, acts of nature and natural disasters, and other acts which may be due to unforeseen circumstances.

18. **Headings.** Headings to this Agreement are for convenience only. Headings shall in no way affect the provisions themselves and shall not be construed in any way that would limit or otherwise affect the terms of this Agreement.

19. **Entire Agreement; Modification.** The agreement embodies the entire agreement between the Client and Designer relating to the subject matter hereof. This Agreement may be changed, modified or discharged only if agreed to in writing by both parties.

**IN WITNESS WHEREOF**, the Parties execute this Agreement as of the date first above written.

**CLIENT:**

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[CLIENT SIGNATURE]

**DESIGNER:**

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[DESIGNER SIGNATURE]