

McBride Designs

Custom Website Design * Domain & Hosting * E-Commerce

WEBSITE DEVELOPMENT AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____ by and between **McBride Designs, LLC** ("Developer") and _____ ("Customer").

Recitals

- A. Developer has experience and expertise in the development of websites.
- B. Customer desires to have Developer develop a website for them.
- C. Developer desires to develop Customer's Website on the terms and conditions set forth herein (the Website").

Agreements

In consideration of the mutual covenants set forth in this Agreement, Customer and Developer hereby agree as follows:

1. Development of Website.

Developer agrees to develop the Website according to the terms listed on Exhibit A attached hereto.

2. Specifications.

Developer agrees to develop the Website pursuant to the specifications set forth in Exhibit B attached hereto (the "Specifications").

3. Delivery of Website.

Developer will use reasonable diligence in the development of the Website and endeavor to deliver to Customer an operational Website no later than 45 business days from the date of this agreement. Customer acknowledges, however, that this delivery deadline and the other payment milestones listed in Exhibit A, are estimates, and are not required delivery dates. Developer will be retaining the source code for the entire project and providing Customer with the output formats only. The output is to be used only within the scope of the project outlined in Exhibit B and does not include the following: Multiplying the site across other domains or servers, creating new websites based on the code, selling the code, relinquishment of the copyright by Developer in any way. Customer shall retain all of its intellectual property rights in any text, images or other components it owns and transmits to Developer for use in the Website.

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4. Ownership Rights.

Customer shall retain all of its intellectual property rights in any text, images or other components it owns and transmits to Developer for use in the Website. Customer shall hold the copyright for the agreed upon version of the Website as delivered, and Customer's copyright notice may be displayed in the final version.

Developer shall hold all right, title, and interest in and to the source code, programming and original artwork created for the project. Specifically, but without limitation, Developer shall hold rights, title and interest in and to:

- 1) all text, graphics, animation, audio components and digital components of the Website (the "Content") created by Developer,
- 2) all interfaces, navigational devices, menus, menu structures or arrangements, icons, help and other operational instructions, and all other components of any source or object computer code that comprises the Website created by Developer,
- 3) All literal and non-literal expressions of ideas that operated, cause, create, direct, manipulate, access, or otherwise affect the content created by Developer,
- 4) All copyrights, patents, trade secrets, and other intellectual or industrial property rights in the Website or any component or characteristic thereof created by Developer. Customer shall not do anything that may infringe upon or in any way undermine Developer's right, title and interest in the Website, as described in this paragraph.

5. Compensation.

For all of Developer's services under this Agreement, Customer shall compensate Developer by any of the following payment methods (cash, check, USPS money order, valid credit card {Customer must sign Credit Card Authorization form}, pursuant to the terms of Exhibit A attached hereto. In the event Customer fails to make any of the payments referenced in Exhibit A by the deadline set forth in Exhibit A, Developer has the right, but is not obligated, to pursue any or all of the following remedies: (1) terminate the Agreement, (2) remove content owned by Developer from servers, (3) bring legal action.

6. Confidentiality.

Customer and Developer acknowledge and agree that the Specifications and all other documents and information related to the development of the Website (the "Confidential Information") will constitute valuable trade secrets of Developer. Customer shall keep the Confidential Information in confidence and shall not, at any time during or after the term of this Agreement, without Developer's prior written consent, disclose or otherwise make available to anyone, either directly or indirectly, all or any part of the Confidential Information. Excluded from the "Confidential Information" definition is anything that can be seen by the public on the Website when each page of the Website is first accessed.

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7. Limited Warranty and Limitation on Damages.

Developer warrants the Website will conform to the Specifications. If the Website does not conform to the Specifications, Developer shall be responsible to correct the Website without unreasonable delay, at Developer's sole expense and without charge to Customer, to bring the Website into conformance with the Specifications. This warranty shall be the exclusive warranty available to Customer. Customer waives any other warranty, express or implied. Customer acknowledges that Developer does not warrant that the Website will work on all platforms. Customer acknowledges that Developer is not responsible for the results obtained by Customer on the Website. Customer waives any claim for damages, direct or indirect, that may arise from Customer accessing the Website.

8. Independent Contractor.

Developer is retained as an independent contractor. Developer will be fully responsible for payment of their own income taxes on all compensation earned under this Agreement. Customer will not withhold or pay any income tax, social security tax, or any other payroll taxes on Developer's behalf. Developer understands that they will not be entitled to any fringe benefits that Customer provides for its employees generally or to any statutory employment benefits, including without limitation worker's compensation or unemployment insurance.

9. Equipment.

Customer agrees to make available to Developer, for Developer's use in performing the services required by this Agreement, such items of hardware and software as Customer and Developer may agree are reasonably necessary for such purpose.

10. General Provisions.

10.1 Entire Agreement.

This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes any and all prior agreements or understandings, written or oral, between the parties related to the subject matter hereof. No modification of this Agreement shall be valid unless made in writing and signed by both of the parties hereto.

10.2 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Virginia. Exclusive jurisdiction and venue shall be in the Halifax County, Virginia Superior Court.

10.3 Binding Effect.

This Agreement shall be binding upon and inure to the benefit of Customer and Developer and their respective successors and assigns.

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10.4 Waiver.

The waiver by either party of any breach or failure to enforce any of the terms and conditions of this Agreement at any time shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance with every term and condition of this Agreement.

10.5 Good Faith.

Each party represents and warrants to the other that such party has acted in good faith, and agrees to continue to so act, in the negotiation, execution, delivery, performance and any termination of this Agreement.

10.6 Ownership of Photographs.

Developer may use some of their own photographs for the Website. Developer maintains ownership of the photographs, and only grants Customer a non-exclusive right to use those photographs, and only on Customer's Website.

10.7 No Right to Assign.

Customer has no right to assign, sell, modify or otherwise alter the Website, except upon the express written advance approval of Developer, which consent can be withheld for any reason.

10.8 Right to Remove Website.

In the event Customer fails to make any of the payments set forth in Exhibit A within the time prescribed in Exhibit A, Developer has the right to remove the Website until payment in full is paid, plus accrued late charges of 5% per month.

10.9 Indemnification.

Customer warrants that everything it gives Developer to put on the Website is legally owned or licensed to Customer. Customer agrees to indemnify and hold Developer harmless from any and all claims brought by any third-party relating to any aspect of the Website, including, but without limitation, any and all demands, liabilities, losses, costs and claims including attorney's fees arising out of injury caused by Customer's products/services, material supplied by Customer, copyright infringement and defective products sold via the Website. Further, Customer agrees to indemnify Developer from responsibility for problems/disruptions caused by third-party services that Customer may use such as merchant accounts, shopping carts, shipping, hosting services, real time credit card processing and other services that relate to the ownership and operation of the Website or multimedia project.

10.10 Use of Website for Promotional Purposes.

Customer grants Developer the right to use the Website for promotional purposes and/or to cross-link it with other Websites developed by Developer. McBride Designs, LLC retains the rights to use the completed project and any preliminary designs for the purpose of design competitions, future publications

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on design, educational purposes, marketing materials, and portfolio. Where applicable the Customer will be given any necessary credit for usage of the project elements.

10.11 No Responsibility for Theft.

Developer has no responsibility for any third-party taking all or any part of the Website.

10.12 Right to Make Derivative Works.

Developer has the exclusive rights in making any derivative works of the Website.

10.13 Attorney's Fees.

In the event any party to this Agreement employs an attorney to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its actual attorney's fees and costs, including expert witness fees.

10.14 Identification of Developer.

Customer agrees that Developer's identification may be annotated within the code or on the Website as the author and/or creator. Customer also agrees to put Developer's copyright notices on the Website and the relevant content therein.

10.15 No Responsibility for Loss.

Developer is not responsible for any down time, lost files, improper links or any other loss that may occur in the operation of the Website.

10.16 Transfer of Rights.

In the event Developer is unable to continue maintenance of the Website non-exclusive rights to the Website will be granted to Customer.

10.17 Domain Name.

Any domain name registered on Customer's behalf will be made in the Developer's name for the registrant, administrator and billing contacts. The technical contact is generally required to be the hosting ISP. Administrator contact will be changed to Customer's name upon payment for domain name registration.

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11. DISCLAIMERS

11.1 Third Parties.

Developer can take no responsibility for services provided by third parties through us or otherwise, including the Hosting of the Customer's Website, although Developer will endeavor to ensure that Website downtime is kept to a minimum.

11.2 Maintenance and Correction of Errors.

Developer takes no responsibility for the functionality or maintenance (unless a maintenance contract is in place) of the Website after the Work has been completed. Errors (both technical and typographical) attributable to Developer will be corrected free of charge, but Developer reserves the right to charge a reasonable fee for correction of errors for which Developer is not responsible, including, but not limited to malicious modification of the Website by a third party and typographical errors contained in materials provided to Developer by Customer.

11.3 Extent of Work.

Installation on the Internet is limited to the uploading of all necessary files to the Host and testing of functionality. No registration of the Website with Search Engines will be undertaken unless otherwise agreed with the Customer and a SEO Contract has been signed.

Each party represents and warrants that, on the date first written above, they are authorized to enter into this Agreement in entirety and duly bind their respective principals by their signature below:

EXECUTED as of the date first written above.

Company Name

By: _____

Title: _____

Date signed: _____

McBride Designs, LLC

By: _____

Title: _____

Date signed _____

Customer's Initials _____

Developer's Initials _____