



## **Terms and Conditions**

AMG WEB LTD will endeavour to operate in a fair and reasonable manner at all times and it is part of our ethos to ensure we maintain a good relationship with our clients. It is, however, important to have certain contractual aspects agreed to in order to protect both parties. By undertaking a design project with AMG WEB LTD you are agreeing to the following terms and conditions.

### **Customer/Client Acceptance**

By using the services of AMG WEB LTD (formerly AMG PICTURES and services pertaining thereto) you agree to these terms and conditions.

### **Development & Maintenance Charges**

Charges for services will be provided by AMG WEB LTD and are defined in the initial "Website Development Proposal". All Estimates and design shall be based on a written brief supplied by the client and agreed to by AMG WEB LTD. AMG WEB LTD will accept reasonable change during development. AMG WEB LTD will be the sole arbiter of what is deemed to be 'reasonable'. Changes that AMG WEB LTD consider unreasonable may incur additional charges.

All web site design services require an advance payment of 30% of the "Website Development Proposal" total before any work is supplied to the Customer. The remainder of the invoice total will be due upon completion of the work or a mutually agreed, signed schedule of payments. Payment for services is due by cash, cheque or Direct Credit. Cheques should be remitted to AMG WEB LTD, PO Box 52165 Kingsland, Auckland 1352, N.Z.

### **Customer/Client Review**

AMG WEB LTD will provide the Customer with an opportunity to review the appearance and content of Web site materials during all development stages. Such materials will be deemed to be accepted and approved by the Customer, unless the Customer notifies AMG WEB LTD in writing or email within seven (7) days. Any design changes requested after approval will be charged @ NZ\$70.00/HR and any code changes will be charged @ NZ\$100.00/HR.

### **Payments**

Invoices will be emailed by AMG WEB LTD upon completion of the work for web site design services, graphic design services and maintenance services. Web design invoices are due for payment within 7 days of the date of sending unless otherwise agreed. Web design accounts that remain unpaid ten (10) days after the date of sending will incur a service charge of two percent (2%) per month of the total due unless otherwise agreed.

### **Default**

Accounts unpaid ten (10) days after the date of invoice will be considered in default unless otherwise agreed. If the Customer in default maintains any information or files on AMG WEB LTD servers or any third party servers, AMG WEB LTD will, at its discretion, remove all such material. Any Customer/Client in default of paying invoices will be charged a fee for restoring their Web site. This restoring fee will be billed @ NZ\$70.00/HR for uploading of site's images, programming and textual content. Removal of such material does not relieve the Customer of the obligation to pay any outstanding charges assessed to the Customer's account.

Customers in default agree to pay AMG WEB LTD reasonable expenses, including lawyer fees and costs for collection by third-party agencies, incurred by AMG WEB LTD in enforcing these Terms and Conditions.

**Termination**

Termination of services by the Customer must be requested in a written notice and will be effective on receipt of such notice. Email or telephone requests for termination of services will not be honoured until and unless confirmed in writing. The Customer will be invoiced for design work, completed to the date of first notice of cancellation, for payment in full within ten (10) days.

**Web site Termination**

Removal of the web site from AMG WEB LTD requires written notification by the Customer to AMG WEB LTD. There will be a cancellation fee of NZ\$200 for website termination payable before release of all files, and AMG WEB LTD will require a minimum of 30 days notice.

**Standard Content Delivery**

Unless otherwise specified in the Proposal for Website Agreement, this Agreement assumes that all text, images and graphics will be provided by the Customer in electronic format and that all images and other graphics will be of a sufficiently high standard acceptable to AMG WEB LTD. Additional expenses may be incurred and will be invoiced accordingly for corrective work, conversion of media or outside facility charges.

Although every reasonable attempt shall be made by AMG WEB LTD to return to the Customer any images or printed material provided for use in creation of the Customer's Web site, such return cannot be guaranteed.

**Design Credit**

A link to AMG WEB LTD will appear discretely in small type at the bottom of the Web site's pages of the Customer's Web site unless otherwise agreed.

**Access Requirements**

If the Customer's Web site is to be installed on a third-party server, AMG WEB LTD must be granted read/write access to the Customer's storage directories, and those directories must be accessible via FTP from AMG WEB LTD's FTP software.

**Right To Pull**

By using the services of AMG WEB LTD, the Customer agrees to give AMG WEB LTD "on demand" access to the Customer's installed Web site, and further agrees that AMG WEB LTD shall have the right to remove that site from public posting for failure to adhere to the terms of this Agreement, including violation of any licensing agreements or failure to pay fees duly assessed.

**Post-Placement Alterations**

AMG WEB LTD cannot accept responsibility for any alterations by a third party occurring to the Customer's web pages once installed. Such alterations include, but are not limited to additions, modifications, or deletions.

**Liabilities**

You agree that AMG WEB Ltd will not be liable for any indirect or consequential damages, including but not limited to, loss of profits or for any claim made on the client by any other party, even though AMG WEB LTD may have been notified of such damage or claims. We shall not be liable to you for any loss or damage directly or indirectly arising out of or in connection with any delay in delivery of the goods or failure to perform its obligations under this agreement where such delay is caused directly or indirectly by an act of God, armed conflict, labour dispute, civil commotion, intervention of a government, inability to obtain labour, materials, facilities, accidents, interruptions of service, or delay in, transportation or any other cause beyond our control.

You agree to defend, indemnify and hold us harmless from and against any and all claims, losses, liabilities and expenses (including attorneys' fees) related to or arising out of the services provided by us to you under this agreement, including without limitation, claims made by third parties (including your customers) related to any false advertising claims, liability claims for products or services sold by you, claims for patent, copyright or trademark infringement, claims due to disruption or malfunction of services provided hereunder, or for any content submitted by you for publication by us.

Due to the public nature of the Internet, all material submitted by you for publication will be considered publicly accessible. AMG WEB LTD does not screen in advance customer material submitted to AMG WEB LTD for publication. AMG WEB LTD's publication of material submitted by customers does not create any express or implied approval by AMG WEB Ltd of such material, nor does it indicate that such material complies with the terms of this agreement.

#### **Copyright**

All material both text and images supplied by the client and used in the construction of the client's Web site, 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.

All software code and images provided as a part of the Web site will remain at all times the property of AMG WEB LTD. The client will be granted a single use, single site, source code license to the software code. The client may not sell or redistribute the software code. The client may not use the software code in more than one installation.

#### **Disclaimer**

AMG WEB LTD makes no warranties of any kind, whether express or implied, for the services it provides. AMG WEB LTD also disclaims any warranty of merchantability or fitness for a particular purpose. AMG WEB LTD will not be responsible for any direct, indirect or consequential damages which may result from the use of its services including loss of data resulting from delays, non-delivery or interruption in service. The Customer acknowledges and agrees that AMG WEB LTD cannot guarantee the absence of service interruptions caused by Acts of God or other circumstances beyond its control including, but not limited to, telecommunications problems.

#### **Applicable law**

The Consumer Guarantees Act 1993 may apply to any services we provide to you if you acquire these services for personal, domestic or household use. If this act applies, all rights you may have under it apply in addition to the rights you may have in this agreement. Nothing in this agreement will limit or exclude your rights under this act.

Where you acquire or hold yourself out as acquiring our services for the purpose of a business, then you agree that the provisions of the Consumers Guarantee Act 1993 will not apply to our service or the provision of any other services to you.

This agreement shall be deemed to be an agreement made in New Zealand and shall be subject to, governed by and interpreted in accordance with the laws of New Zealand.

#### **Non Waiver**

Failure by any party to enforce any right or obligation with respect to any matter arising in connection with this contract shall not constitute a waiver as to that matter or any other matter either then or in the future. Any waiver of any right or obligation under this contract shall only be of any force and effect if such waiver is in writing and is expressly stated to be a waiver of a specified right or obligation under this contract.