



## **Big Toe Web Design Ltd. Terms and conditions**

*Please read these Terms and Conditions carefully. Any purchase or use of our services implies that you have read and accepted our Terms and Conditions. The following Terms and Conditions document is a legal agreement between Big Toe Web Design Ltd and the Client. Please see the additional 'Terms and Conditions for the supply of SEO services' if you are purchasing a monthly search engine optimisation plan.*

### **1. Definitions of terminology**

A 'project' is any work undertaken or service provided by Big Toe Web Design Ltd for the Client on their request and as described in our confirmation order email to that Client.

'You' or the 'Client', is a person, persons, business or organisation using any of the services provided by Big Toe Web Design Ltd.

'We', 'us' or 'our' means Big Toe Web Design Ltd.

'Domain' is the website address as specified by the Client.

'Hosting' is a yearly cost to keep the Client's website active online.

'Content' is both text and images that the Client requires on the website.

### **2. Acceptance**

It is not necessary for any Client to have signed an acceptance of these Terms and Conditions for them to apply. If a Client accepts a quote and pays a deposit for a project then the Client will be deemed to have satisfied themselves as to the terms applying and have accepted these terms and conditions in full. Any variations to these conditions shall have no effect unless agreed in writing.

### **3. Legalities, copyright and intellectual property**

Big Toe Web Design Ltd shall expect the Client to carry out sufficient research before proceeding with a website. This will include checking that the website, idea and/or business will operate legally. It is important that the website is not in any way illegal. You should ensure that any images or content you supply or use on your website is legally available for you to use. We cannot be held responsible for the illegal use of images, content or format of material supplied by you. We reserve the right to remove any website from our servers if we have reason to believe that it is operating illegally.

Where images used on the website have been purchased by Big Toe Web Design Ltd on behalf of



the Client, these images are restricted by license for use on the website only. We are not liable for misuse of these images by the Client or any other person's copying, altering or distributing the images to individuals or other organisations.

We reserve the right to refuse to handle any media that contains a virus or hostile program.

We cannot be held responsible for anything adversely affecting the Client's business operation, sales, or profitability that might be claimed as a result of a service offered by Big Toe Web Design Ltd.

Copyright of the completed web designs, images, pages, code and source files created by Big Toe Web Design Ltd for the project shall be with the Client upon final payment only by prior written agreement. Without agreement, ownership of designs and all code is with Big Toe Web Design Ltd. These terms of use grant a non-exclusive limited license so that the Client can use the design on one website on one domain name only. The Client is not permitted to use a design for more than one website without prior written agreement between the Client and Big Toe Web Design Ltd. The Client retains the copyright to data, files and graphic logos provided by the Client, and grants Big Toe Web Design Ltd the rights to publish and use such material.

If Big Toe Web Design Ltd designs a website for a Client, then the Client agrees that we may include a design/development credit and link displayed on the Client's website. This link may be within the code but not displayed on a web browser if requested in writing by the Client. The Client agrees that we reserve the right to include any work done for the Client in a portfolio of work displayed on our website.

The Client agrees to abide by the terms of any third party software or media included within any work done for the Client. Examples of this include, but are not limited to, Google Maps, Media under the Creative Commons license, RSS feeds, Open Source Software etc.

#### **4. Acceptance of work**

Quotations are valid for 30 days from date of issue. No contract for the supply of services exists between the Client and Big Toe Web Design Ltd until we send an invoice to the Client for payment. The invoice equals acceptance by Big Toe Web Design Ltd of the Client's offer to purchase services and this acceptance of work is a valid contract between Client and us regardless of whether the Client receives the invoice. The Client agrees to check that the details of the invoice are correct and should print and keep a copy for their records.

We are liable to withdraw from the contract at any time prior to acceptance. Additional work requested by the Client that is not specified in the agreed quotation is subject to an additional quotation by us on receipt of specification. If the work is needed as part of an existing project, then this may affect timescale and overall delivery time of the project.



## 5. Payment schedule

We charge for the design and development of websites at various stages. For our 'off the shelf' websites, a 50% deposit of the total sum due is payable (the deposit) before we start work. The remaining 50% is payable when the website is complete and ready to 'go live' (final payment). Your website will only be switched to 'live' mode when it has been paid for, in full.

For our 'bespoke' websites, a 35% deposit of the total sum due is payable before we start work. Another 35% of the total sum is due when the website design is approved by you and a design for the home page is completed. The final payment (30% of the total sum) is payable when the website is complete and ready to 'go live'. Your website will only be switched to 'live' mode when it has been paid for in full.

For all projects, the initial deposit payment is non-refundable after Big Toe Web Design Ltd has committed resource or completed research and/or design work on behalf of the Client.

Big Toe Web Design Ltd can receive payments by BACS transfer or cheque. If paying by cheque, please understand that the cheque will need to clear the banking system before starting and/or continuing with your project.

Big Toe Web Design Ltd owns all design and code of the website until the final payment has been received in full.

All invoices must be paid within 30 days of the invoice date, except where agreed at our own discretion. We reserve the right to decline further work on a project if there are invoices outstanding with the Client. We reserve the right to remove work for the Client from the internet if payments are not received. Accounts that remain unpaid thirty days after the date of the invoice will be assessed a service charge in the amount of the higher of two and one-half percent (2.5%) or £60 per month of the total amount due.

Accounts unpaid thirty days after the date of invoice will be considered in default. If the Client in default maintains any information or files on our webspace, Big Toe Web Design Ltd will, at its discretion, remove all such material from its servers. We are not responsible for any loss of data incurred due to the removal of the service. Removal of such material does not relieve the Client of the obligation to pay any outstanding charges assessed to the Client's account.

Cheques returned for insufficient funds will be assessed a return charge of £25 and the Client's account will immediately be considered to be in default until full payment is received. Clients with accounts in default agree to pay Big Toe Web Design Ltd reasonable expenses, including legal fees and costs for collection by third-party agencies, incurred by us in enforcing these Terms and Conditions.

## 6. Communication

During a project it is important that the Client communicates information to us to achieve the



required result. The Client agrees to provide any needed information and content required by us in good time to enable us to complete a design or website work as part of an agreed project.

Text content should be delivered as a Microsoft Word, email (or similar) document with the pages in the supplied document representing the content of the relevant pages on your website. These pages should have the same titles as the agreed website pages.

Email is our primary method of contact with regard to all communication for your website design and development. If you have any problems with the design or development of your website that we are unable to resolve by email, you can contact us by telephone during office hours.

It is the Client's responsibility to inform us of any changes in contact details (including email address) so that we always have valid contact details. We cannot be held liable in any way for problems relating to communication issues if we are not supplied with a valid email address. All Clients will be asked to complete a 'Client contact details' form, prior to work on the project commencing.

## **7. Website design and development**

We will continue to work with you on your design concept until you are happy with our proposal. Once you accept the home page design draft, design changes beyond this point are subject to additional charges at the standard hourly rate.

If optimised pages are included as part of the project, we will optimise your web pages that already make up part of the project. Optimised pages is not creation of new pages. The optimisation of the web pages can include the meta tags, keywords, description, title, alt tags and text provided by the Client. We endeavour to create pages that are accessible to search engines. However, Big Toe Web Design Ltd does not take any responsibility for a Client's website rank on search engines. This also includes any potential website downtime that can occur. When updating, changing, creating and hosting a Client's website, there could be a change in the website's search engine ranking.

Big Toe Web Design Ltd at all times applies reasonable skill and care in provision of services. Once the project is completed, we will upload the website to the Client's live web address if included as part of a project.

After site completion, a Client or a third party of their choosing may wish to edit their website code themselves to make updates. However, the Client agrees that in so doing they assume full responsibility for any issues which occur as a result of changing the code themselves. If the Client or a third party of their choosing edits the website code and this results in functionality errors or the page displaying incorrectly, then we reserve the right to quote for work to repair the website.

We make every effort to ensure websites are designed to be viewed by the majority of visitors. Websites are designed to work with the most popular current browsers (e.g. Firefox, Google Chrome, etc.). The Client agrees that we cannot guarantee correct functionality with outdated browser software or across non-mainstream operating systems. We cannot accept responsibility for



web pages which do not display acceptably in new versions of browsers released after the website have been designed and handed over to the Client. As such, we reserve the right to quote for any work involved in changing the website design or website code for it to work with updated browser software.

Big Toe Web Design Ltd reserves the right to assign subcontractors in whole or as part of a project if needed.

## **8. Hosting**

Big Toe Web Design Ltd will host the website if the Client requires us to do so and on receipt of full payment of our hosting fees. Big Toe Web Design Ltd hosting is annually renewable. The date of renewal is 1 January. The Client will begin payments for hosting on the 1 January following acceptance of our project quote. Big Toe Web Design will contact the Client each year to provide an invoice for hosting and domain registration for the following calendar year.

The hosting renewal charge must be received before 1 January. We reserve the right to deactivate any website when the hosting has expired (30 January) and the Client has not paid the renewal charge. We reserve the right to charge an administration fee of £50 for reactivating the website/hosting.

If the Client does not use Big Toe Web Design Ltd hosting services, then the management and hosting of the domain name are the full responsibility of the Client. The Client agrees to pass on FTP details and any other access details relating to their domain name and hosting account that we require to upload the website if required as part of a project. We reserve the right without notice to cancel, reject or refuse work with domain names or hosting services without reason for such rejection or refusal.

If the Client does not wish to renew the hosting, the site files and associated data can be made available to the Client free on request and the domain name can be transferred to the Client's registrar account. Should the Client instruct us to upload and configure the site and domain name to a third party server this work will be subject to an additional charge.

We can, at our own discretion, offer domain name registration and hosting via a third party service, although we are not obliged to do so.

## **9. Domain names**

If required, a domain name will be registered by Big Toe Web Design Ltd on behalf of the Client once we have received payment in full. The domain name is registered in the Client's own name, with the address and contact details of Big Toe Web Design Ltd. Although the domain names are registered to us, the Client is the legal owner of the domain and if they request to have details changed or the domain transferred elsewhere, we will do this within a reasonable timeframe.

The Client should be aware that a domain name is registered with a third party and as such the



Client shall agree to fully abide by the terms and conditions set out by the third party for such services.

The Client agrees that registration of a domain name does not provide endorsement of the right to use the name. The Client is responsible for ensuring they have due title to the domain name. We hold no liability and the Client hereby agrees to indemnify and hold harmless Big Toe Web Design Ltd from any claim resulting from the Client's registration of a domain name.

## **10. Liability and warranty disclaimer**

Big Toe Web Design Ltd provides website and the contents thereof on an 'as is' basis and makes no warranties with regard to the site and its contents, or fitness of services offered for a particular purpose. We cannot guarantee the functionality or operations of the Client's website or that it will be uninterrupted or error free, nor does it warrant that the contents are current, accurate or complete. Whilst every effort is made to make sure files are error free, we cannot guarantee that the display or functionality of the web design or the website will be uninterrupted or error free. If errors are found in code that we have created, after acceptance of the work, we reserve the right to quote separately for any work involved in correcting an error.

We will endeavour to provide a website within given delivery timescales to the best of our ability. However, the Client agrees that we are not liable for any claims, losses, costs incurred or compensation due to any failure to carry out services within a given delivery timescale.

We are also not liable for any failure to carry out services for reasons beyond our control, including but not limited to: acts of God, telecommunication problems, software failure, hardware failure, third party interference, Government, emergency on a major scale or any social disturbance of extreme nature such as industrial strike, riot, terrorism and war or any act or omission of any third party services. We are not liable for any consequences or financial losses such as, but not limited to, loss of business, profit, revenue, contract, data or potential savings, relating to services provided.

Should the Client go into compulsory or involuntary liquidation or cannot pay its debts in the normal course of business, Big Toe Web Design Ltd reserves the right to cancel forthwith any projects and invoice the Client for any work completed.

We shall have no liability to the Client or any third parties for any damages, including but not limited to claims, losses, lost profits, lost savings, or other incidental, consequential, or special damages arising out of the operation of or inability to operate these web pages or website, even if we have been advised of the possibility of such damages.

There are sometimes laws and taxes that affect Internet e-commerce. The Client agrees that it is their responsibility to comply with such laws and will hold harmless, protect, and defend Big Toe Web Design Ltd and any of its subcontractors from any claim, suit, penalty, tax, or tariff arising from the Client's exercise of Internet e-commerce.



## **11. Indemnification**

The Client agrees to use all of our services at their own risk and agrees to defend, indemnify, save and hold us harmless from any and all demands, liabilities, costs, losses and claims, including but not limited to legal fees against us or our associates that may arise directly or indirectly from any service provided or agreed to be provided or any product or service sold by the Client or its third parties.

The Client agrees that this indemnification extends to all aspects of the project, including but not limited to website content and choice of domain name.

The Client also agrees to indemnify, hold harmless and defend, Big Toe Web Design Ltd against any liabilities arising out of injury to property or person caused by any any product or service sold by the Client or any service provided or agreed to be provided or by third parties, including but not limited to infringement of proprietary rights, misinformation, infringement of copyright, delivery of defective services or products that are harmful to any company, person, business, or organisation.

## **12. Acceptable conduct**

Big Toe Web Design Ltd will not tolerate any form of harassment against its employees from customers or third parties and we reserve the right to cancel a contract without refund in the event of unreasonable or inappropriate conduct. This includes threatening behaviour and abuse directed towards our employees thereafter any further communication must be via postal mail only.

## **13. Nondisclosure**

We agree that, unless directed by the Client, we will not at any time during or after the term of this agreement disclose any confidential information. The Client agrees that it will not convey any confidential information about us to another party, unless directed by Big Toe Web Design Ltd.

## **14. Privacy Policy**

We shall use information provided by the Client in relation to this agreement in accordance with the Data Protection Act 1998. This information will also be used to identify the Client in communications with them and to contact the Client from time to time to offer them services or products that may be of interest to or benefit the Client.

## **15. Governing Law**

These Terms and Conditions shall be governed by Scottish Law.

## **16. Interpretation**

Big Toe Web Design Ltd reserves the right to terminate a project with a Client at any time without prior notification if it finds the Client in breach of these Terms and Conditions. We shall be the sole



arbitrator in deciding what constitutes a breach. No refunds will be given in such a situation.

Where one or more terms of this contract are held to be void or unenforceable for whatever reason, any other terms of the contract not so held will remain valid and enforceable at law.

Any and all matters pursuant to this agreement are governed by Scottish Law and are under exclusive jurisdiction of the Scottish Courts.

This agreement shall be governed by the laws of Scotland which shall claim venue and jurisdiction for any legal motion or claim arising from this agreement. This agreement is void where prohibited by law.

By accepting a quotation or making a payment of invoice to use the services supplied, the Client acknowledges to have read, understand, and accept the Terms and Conditions of this Agreement, and agrees to be legally binding by these Terms and Conditions.

Big Toe Web Design Ltd reserves the right to alter these Terms and Conditions at any time without prior notice. The latest Terms and Conditions can be found on the Big Toe Web Design Ltd website.

### **17. Severability**

In the event any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired and the Agreement shall not be void for this reason alone.

### **18. Statutory Rights**

These Terms and Conditions do not affect your statutory rights as a consumer.

Big Toe Web Design Ltd  
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