

## **Terms, Conditions, and Service Agreement**

### **Authorization**

The named client is engaging Eric Sauers as an independent contractor for the web or related development project defined and described in the website development proposal to which this Service Agreement is attached (the "Proposal"). If the client wishes to host their site and register their domain name with third party companies (i.e. opting out of Eric Sauers's recommended providers), the client hereby authorizes Eric Sauers to access said third party accounts for the duration of the development and maintenance of their site (i.e. the duration of the client's Service Agreement with Eric Sauers).

### **Copyright and Trademarks**

The client unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Eric Sauers for inclusion in the web development project are owned by the client, or that the client has permission from the rightful owner to use each of these elements, and will hold harmless, protect and defend Eric Sauers from any claim or suit arising from the use of such elements furnished by the client.

### **Software License**

This Service Agreement covers any software required to complete the project provided by Eric Sauers, which includes computer software and may include associated media, printed materials, and "on-line" or electronic documentation ("Software Product"). By exercising your rights to install a copy of the Software Product, you agree to be bound by the terms of this Agreement. Copyright laws and international copyright treaties, as well as other intellectual property laws, patents and treaties, protect the Software Product. The Software Product is licensed, not sold. The Software Product is licensed as follows: Eric Sauers grants you a non-exclusive right to install one (1) copy of the Software Product on your one web server. You may also make copies of the Software Product as may be necessary for backup and archival purposes. If any component of the Software Product or any of its components is marked "Pre-release" or "Beta", the component of the Software Product constitutes pre-release code and may be changed substantially before commercial release. Eric Sauers strongly recommends against using such pre-release software in a live operating environment where it may be relied upon to perform in the same manner as a commercially released product or with data that has not been sufficiently backed up. You must not remove or alter any copyright notices on all copies of the Software Product. You may not distribute copies of the Software Product to third parties. You may not reverse engineer, decompile, or disassemble the Software Product. You may not download the software for the intent of reverse engineering, decompiling, or disassembly of the Software Product. You may not rent, lease, or lend the Software Product. License to use this product and associated rights are non-transferable. You may not rename, edit or create any derivative works from the Software Product.

### **Web Site Maintenance**

The Service Agreement allows for continued monthly updates at the rate of \$45/hour. The period of one-month begins when the client's web site has been completed, published, and approved (within reasonable limits) by the client, and the minor maintenance shall be up to, but not exceed six (6) hours, including updating text and making minor changes to a sentence or paragraph. It does not include updating or replacing nearly all the text from a page with new text, major page reconstruction, adding new pages, adding message boards, navigation structure changes, repairs to attempted client updates, or any other "major" site maintenance. Major site changes and maintenance will be charged at an hourly rate of \$70/hour or at Eric Sauers's published rates, whichever is greater.

**Excluded Expenses**

Certain costs associated with the performance of the project are not included in the estimated cost of the proposal. All web software such as Wordpress and/or all plugins/components thereof are provided as is. It is your responsibility to ensure ahead of time that the layout, functionality and user friendliness of the purchased products meets your requirements. Any customization beyond base layout or functionality of said products will be billable. The following expenses, indicated below, will be billed in addition to the cost of the project as set forth in the proposal.

<ul style="list-style-type: none"> <li>• Working with 3rd Parties to Resolve Technical Issues</li> <li>• More than two revisions per deliverable</li> <li>• Travel/Meals/Hotels</li> <li>• Stock Music</li> <li>• Domain Registration</li> <li>• Any Fees or Software Licensing Costs Charged by 3rd Parties <i>(Software or services requested by client and provided by a 3rd party are not warranted by Eric Sauers)</i></li> <li>• Stock Imagery</li> </ul>	<ul style="list-style-type: none"> <li>• Voiceovers/Acting</li> <li>• Other Digital Assets</li> <li>• Media &amp; Printing</li> <li>• SSL Certificates</li> <li>• Courier/Shipping</li> <li>• Location Fees</li> <li>• Other Consumables</li> <li>• Hosting</li> <li>• Fees Associated with Setting up Merchant Accounts</li> </ul>
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**Completion Date**

Eric Sauers and the client must work together to complete the web development project outlined in the Proposal in a timely manner. Eric Sauers agrees to work expeditiously to complete the project after the client has submitted all necessary materials, and after the Service Agreement has been signed by both parties. If the client does not supply Eric Sauers with all necessary deliverables for this project (e.g. company information, product information, photos, descriptions, sign off, approvals, etc.) within sixty (60) days of a designated deliverable date, or within sixty (60) days of the first request for a deliverable by Eric Sauers or staff member, Eric Sauers will consider the project abandoned and will bill the remainder of the proposal in full. If the client still has not submitted all the required contents within ninety (90) days of any of the aforementioned dates, an additional project resumption fee of fifteen percent (15%) of the total price listed in the Proposal will be assessed. Outstanding balances and fees must be paid in full before projects can be resumed.

**Project Delivery**

The web development project delivery shall be completed upon receipt of the full payment amount, as established in the Service Agreement. Delivery is defined as publishing the web site on the Internet. If the client decides to hire a third party hosting company to host their web site, Eric Sauers is not

responsible for any current or future problems or malfunctions associated with that host provider (e.g. incompatibilities, lag, downtime, etc.).

### **Electronic Commerce Laws**

The client agrees that the client is solely responsible for complying with such laws, taxes and tariffs, and will hold harmless, protect, and defend Eric Sauers and its subcontractors from any claim, suit, penalty, tax or tariff arising from the client's exercise of Internet electronic commerce.

### **Web Development Project Copyright**

Rights to clipart, photos, graphics, source code, work-up files and computer programs are not transferred to the client, and remain the property of their respective owners. Eric Sauers retains the right to display graphics and other web design elements as examples of their work in their portfolio.

### **Payments**

A fifty percent (50%) down payment on Proposal shall be paid before the Service Agreement is put into effect, and before a project start date is established. This down payment will be put towards the final amount due. All payments must be made promptly based on the agreed schedule in the Proposal. Delinquent bills can be assessed a fifteen dollar (\$15) charge if payment is not received within ten (10) business days of the due date. If an amount remains delinquent for thirty (30) days after its due date, an additional one point five percent (1.5%) in interest may be charged for each month on the delinquent amounts due. In case collection proves necessary, the client agrees to pay all fees incurred by that process. Please pay on time. All payments will be made in United States Dollars (USD\$) unless agreed upon in writing by both parties.

### **Refunds**

Refunds will only be issued if work has not started on your project. You generally have two business days to request a refund if you do not want to move forward.

### **Legal Notice**

Eric Sauers does not warrant that the functions contained in the web development project will be uninterrupted or error-free. In no event will Eric Sauers be liable to the client or any third party for any damages, including, but not limited to service interruptions caused by Acts of God or any other circumstances beyond our control, any lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate this web design project, failure of any service provider, of any telecommunications carrier, of the Internet backbone, of any Internet servers, your or site visitor's computer or Internet software, even if Eric Sauers has been advised of the possibility of such damages.

### **The Service Agreement**

The Proposal and this Service Agreement (collectively for this paragraph only, the "Agreement") constitute the sole agreement between Eric Sauers and the client regarding the web development project. This Agreement becomes effective only when signed by an authorized representative of each party. Regardless of the place of signing of this Agreement, the client agrees that for purposes of venue, this Agreement was entered into in the State of Pennsylvania, and any dispute will be litigated or arbitrated within the State of Pennsylvania. Any additional work not specified in the Agreement must be authorized by a written request and signed by the customer. All prices specified in this Agreement will be honoured for three (3) months after both parties sign the Agreement, unless otherwise specified in

said Agreement. Continued services after that time may require a new agreement. Unless a new agreement is entered into between client and Eric Sauers, any continued services requested by the client relating to this project shall be covered by this agreement. The Agreement supersedes any prior written or oral agreements between the parties. If the parties cannot reconcile a dispute arising under this Agreement, they agree to submit the matter in dispute to binding and final arbitration with the American Arbitration Association or such other arbitrator or arbitrators as the parties may agree.

#### **Amendment**

The Service Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

#### **Authority to Enter into Agreement**

The parties and their representatives signing this Agreement hereby acknowledge and represent that the representatives signing this Agreement are duly authorized agents of the parties hereto and are authorized and have full authority to enter into this Agreement on behalf of the parties for whom they are signing.

#### **Severability**

If any provision of the Proposal or Service Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Proposal or Service Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed written, construed, and enforced as so limited.

#### **Waiver of Contractual Right**

The failure of either party to enforce any provision of the Proposal or Service Agreement shall not be construed as a waiver of limitation of that party's right to subsequently enforce and compel strict compliance with every provision thereof.

#### **Notices**

Any notice, direction, or other communication given under the Service Agreement shall be given in writing via e-mail or regular (i.e. snail) mail. In the case of e-mail, valid notice shall only have been deemed to have been given when an electronic confirmation of delivery has been obtained by the sender. In the case of notice to us, please use the contact information presented in the Service Agreement. In the case of notice to you, we will use the contact information furnished to us at the onset of the agreement.

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#### **Eric Sauers**

[ericsauersdesign.com](http://ericsauersdesign.com)

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