

Terms and Conditions

Last Updated: 24 March, 2019

SDJB Ltd (Trading as) Codos - Website Development Services.

Web Development

SCOPE OF WORK

Website development as per the proposal agreed upon and the approved design concept.

CHANGES

Minor variations to the initial template/concept may be included in the quote provided but at the discretion of the Codos.

Should changes requested involve a re-design or substantial alteration, then additional charges will be applied at the rate of \$135.00 NZD per hour (Inc 15% GST) or part thereof.

CUSTOMER'S RESPONSIBILITIES

Should customer fail to provide required material in reasonable time to enable completion of website by forecast completion date, Codos reserves the right to charge any balances on website construction fees, and credit to the customer the remaining services.

Should the site be completed, but the customer is unable to provide sign off, for any reason, Codos will invoice for the balance of the contract.

Codos shall be excluded from all liability we may have to you or anyone claiming through you whether in contract, tort, equity or otherwise relating to any indirect or consequential loss, damage or expense of any kind whatsoever arising under or in respect of this Agreement including, without limitation any economic loss, loss of use, loss of profits, loss of income, or increased or alternative cost, however caused.

This exclusion applies to any claim you may have for any damages whatsoever and applies for benefit of the following people; Codos and any of its related companies; Codos employees, contractors, officers and agents; Any network operator or other person whose services we use to provide services to you (or any of their employees, contractors, officers and agents).

WEBSITE COPY

Web Site text will be supplied by the Customer.

ACCESSIBILITY OF WEB SITE DURING CONSTRUCTION

Throughout the construction of the prototype and the final Web Site, the Web Site shall be accessible to Customer. Until Customer has approved the final Web Site, none of the Web Pages for Customer's Web Site will be accessible to end users.

FEES

For new website builds the customer agrees to pay the initial 50% of the Development Fee to Company upon placing the Order and Company shall have no obligation to perform any work until payment is received. Balance of fee is due within one month following completion of website, unless Codos acts upon its right to invoice early and will then issue a work credit for the completion of the website.

Customer represents to Company and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Company for inclusion in the Web Site are owned by Customer, or that Customer has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Company and its subcontractors from any claim or suit arising from the use of such elements furnished by Customer.

You agree that you will pay Codos and any subsidiary or partner service for all services provided and that payment will be made by the due date shown on your invoice. Until receipt of full payment and confirmation in writing by Codos, all material, images, text, video, audio and services remain the copyright and under ownership of Codos.

Codos Terms and Conditions

1. General

All Services are provided on an "as is, as available" basis.

We suggest that you thoroughly read and familiarise yourself with these terms and conditions to ensure you understand the terms and conditions of the agreement you are entering into with Codos.

1.1 To the extent that there is any uncertainty in the construction of the terms of this contract, the definitions listed in Schedule 1 shall be used to construe the proper meaning of the terms of this contract or the terms shall be construed in the ordinary meaning.

1.2 Codos gives no warranty, express or implied, for the Product/Services, including any reimbursement for losses of income due to disruption of services by Codos or its providers for any amount greater than the fees paid by the Customer to Codos for the services. The Customer irrevocably, waives all right

to claim reimbursements for lost business income as a result of interruptions to Product/Services provided by Codos.

1.3 The Customer warrants to Codos that they will use the Product/Services provided by Codos in a manner consistent with the laws of New Zealand and any local laws to which the Customer is subject in its use of the Internet. The Customer further indemnifies Codos against all liability for the illegal use of the Internet and any criminal, civil or other sanctions which may result from the illegal use of the Internet in any and all jurisdictions in which Customer operates using Codos's Network in any way.

1.4 You may have the benefit of statutory guarantees under the Consumer Guarantees Act 1993. Unless you use, or hold yourself out as using, the services for the purposes of a business.

1.5 While we take all reasonable security precautions, the nature of telecommunications services means that we cannot guarantee the confidentiality of any calls or transmissions you make using our Product/Services.

1.6 We may vary the Product/Service or price from time to time or decide to stop providing a particular Product/Service. We will notify you 7 days prior to making a variation to your Product/Services via email.

2. Accounts

Codos retains the right to refuse service to anyone at any time for any reason.

2.1 The Customer is required to provide and regularly update Codos with correct contact details for billing and technical notification purposes. Codos accepts no liability for disruption to services due to inability to contact the Customer. It is the Customer's responsibility to provide Codos with a valid email address that allows emails from Codos that can get through your spam filter, which is not at the domain(s) The Customer is signing up under.

2.2 Credit Worthiness If at any time Codos has reasonable concerns about the customer's creditworthiness, or its ability to comply with the terms of this agreement, then Codos may require that the customer do one or more of the following:

- a) Bond: provide Codos with an amount equal to two thirds the estimated website build charges.
- b) Letter of credit: provide a letter of credit to Codos from your bank.
- c) Guarantee: provide a guarantee in support of the customer's obligations under this agreement in a form and from an entity approved by Codos.
- d) Trade references: provide trade references from two creditors approved by Codos, in which case the customer must pay, provide

or deliver the relevant items to Codos within 5 Business days of Codos's written request. Failure to pay, provide or deliver the relevant items to Codos within that time constitutes a breach of this agreement

3. Termination

3.1 This contract may be terminated by Codos without cause, by giving the Customer written notice. This notice shall be delivered via email with the termination date set as the end of the Customers current billing cycle.

3.2 If the Customer pays annually and wishes to cancel the service before their next due date; In such case, Codos shall not refund any monies for the remaining period.

3.3 Codos may, at its sole discretion, cancel an account at any time if, in its opinion, the Customer has failed to abide by this contract or the Acceptable Use Policy or any other policy relating to Codos's operations and any future policy or change of policy which is determined as being necessary at the sole discretion of Codos. In such case, Codos shall be entitled to all reasonable costs and expenses of such enforcement including collection fees, court costs and legal fees.

3.4 The Customer must give 30 days written notice via email to Codos before cancellation of any service takes place.

3.5 In such cases, if the service is cancelled without due notice by the Customer, Codos is not responsible for saving or returning any data, files or directories.

3.6 Codos will be entitled to payment for the balance of the month where less than the one month's notice is given.

4. Technical Issues

4.1 Codos maintains control and ownership of all IP numbers and addresses that may be assigned to the Customer and reserves the right to change or remove any and all IP numbers and addresses to the Customer's service. If we need to make a change, we will give the customer at least 48 hours prior warning.

5. Retrieval of Access Information

5.1 The retrieval of access shall be conducted in the following manner. If the Customer loses their account access information, the Customer must do these things in order:

- a) Request an automatic password re-send if available, via the service login form provided for service in question online;
- b) Email Codos's support staff to re-send the details to the email address Codos has on record; and

- c) Fax, scan or email in required identification as requested by Codos.

6. Payments, Debt and Pricing

6.1 The terms of payment by the Customer to Codos are:

- a) The Customer will be billed one month in advance from the date the service becomes active.
- b) All prices stated on Codos's website are in New Zealand dollars and include GST of 15%.
- c) All prices are subject to change with 14 days advance notice from Codos. Prices may increase due to increased operating costs, for example: power, bandwidth and or administration costs, and at Codos's sole discretion.
- d) Codos only accepts payment by Visa or MasterCard, Cheque, Direct Credit, Automatic Payment.
- e) If the Customer's payment is not received for an invoice within seven days of the due date shown on the invoice, services WILL be suspended or even terminated (at the discretion of Codos).
- f) A late payment fee of 11% per invoice will be applied to the Customer's overdue invoice seven days after the date on which payment was first due.

6.2 If you are in arrears and past a due date by eight days, Codos WILL hand the Customer's accounts/records/logs and other information over to a debt collection agency and the Customer will be liable for all costs incurred in recovering the debt.

6.3 Codos reserves the right to terminate this contract as a result of any late payment by the Customer, without notice.

6.4 If the Customer fails to make payments on time by the end of the involve month, Codos WILL require the Customer to pay a deposit as a condition to keeping your account open.

6.5 Codos does not offer any credit services to its Customers.

7. Indemnity

7.1 The Customer agrees to indemnify, defend and hold Codos and its affiliates, licensors and suppliers harmless from any liability, loss, claim and expense, including reasonable solicitor's fees related to the Customer's breach of this contract.

7.2 Notwithstanding anything else in the contract, Codos shall not be liable to the Customer for loss of profits, contracts, loss of reputation, loss caused by

any third party deleting, removing, deactivating or tampering with the Codos Service or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.

7.3 The Customer shall immediately indemnify Codos against all proceedings, fees, expenses, payments, liabilities, injury, costs and damages arising out of:

- a) The breach by the Customer of any of its obligations under the contract; and
- b) Any express or implied warranties, representations, confirmations or acknowledgements that are given by the Customer which are untrue or misleading.

7.4 The Customer agrees that Codos shall not be liable to the Customer for any force majeure event (unavoidable event) being any situation (other than a failure to pay money due to the other party) in which Codos fails to comply with its obligations under the contract due to anything beyond its reasonable control.

7.5 The Customer agree that Codos shall not be liable to the Customer for loss arising from or in connection with any representations, agreements, statements or undertakings made prior to the date of execution of the contract other than those representations, agreements, statements or undertakings confirmed by a duly authorised representative of Codos in writing or expressly incorporated or referred to in the contract.

7.6 This contract represents the entire understanding between Customer and Codos, regarding Customer's relationship and supersedes any prior statements or representations.

8. Warranties and Guarantees

8.1 Codos gives no warranties in relation to any of the Product/Services content, goods or services provided through its websites. Codos does not guarantee in any way the merchantability, quality or use of Products purchased through the site.

8.2 The Customer warrants that they are in possession of the following and that they waive any legal right to claim against Codos in relation to loss of damage resulting from the absence of the following:

- a) An Internet connection with sufficient bandwidth and quality to allow trouble-free browsing and data uploading and downloading;
- b) A fully functional Internet browser;
- c) Suitable and necessary tools to develop and publish content; and
- d) Tools with which to access database servers.

8.3 The Customer warrants that:

- a) The Customer has full power and authority to enter into and perform the contract;
- b) All information provided by the Customer to Codos shall be complete, accurate and not misleading;
- c) The Customer will comply with all its duties under any data protection laws and regulations applicable to the Customer's operations;
- d) The Customer's performance of its obligations under the contract will not infringe the Intellectual Property Rights of Codos or any third party; and
- e) None of the information or materials supplied by the Customer to Codos shall be libellous, obscene or abusive nor shall it breach any law or regulation or give rise to any legal claims of any sort.

8.4 The Customer agrees that all conditions, warranties, representations or other terms concerning the supply of the Product which might otherwise be implied or incorporated into the contract or any collateral contract, whether by statute, common law, custom or otherwise, are hereby expressly excluded to the fullest extent permitted by law.

8.5 The Customer should have their own insurance organised for their owned equipment stored or hosted with or by Codos.

9. Disclaimer

9.1 The Product/Services provided from or through its website by Codos is provided on an "as is", "as available" basis. All warranties, express or implied, are disclaimed including but not limited to, any implied warranties of the merchantability and fitness for a particular purpose of Product/Services. The maximum liability of Codos for the Product, for any reason shall be limited to the amount paid by Customer for the particular items purchased and in the event of a regular supply of Product, not exceeding one month's supply. The Customer hereby accepts that the maximum liability of Codos, for any reason shall be limited to the cost of the content, goods or services provided to the Customer by Codos.

Codos and any of its affiliates, dealers or suppliers are not liable for any indirect, special, incidental or consequential damages including damages for loss of business, business profits, litigation judgments or the cost of legal fees whether based on any claim for breach of contract, breach of warranty, tort, negligence, product liability or any other claim which the Customer may raise against Codos. This term is to subsist despite any advice from the Customer of the nature of damages proposed by the Customer or their legal representative. This clause is to be

considered a material, fundamental and essential term of the bargain between the Customer and Codos.

10. Refunds

10.1 Codos does not provide refunds for any service or product purchased by the Customer.

11. Acceptable Use Policy

11.1 It is Codos's intent to provide its customers with good quality services where reasonably possible.

Without prejudice to or derogation from any of its general rights of termination, as provided herein Codos reserves the right to immediately terminate, without notice, any service provided to the Customer which violates this "Acceptable Use Policy".

The Customer agrees they will not:

- a) Undertake any unlawful purpose. This includes, but is not limited to, posting, storing, transmitting or disseminating information, data or material which is libellous, obscene, unlawful, threatening, defamatory, or which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offence.
- b) Violate the law of any foreign state or in particular the laws of the country in which Customer resides.
- c) Impersonate any person, entity or computer address, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar activity.
- d) Access any other person's computer or computer system, software, or data without their knowledge and consent; breach the security of another user; or attempt to negate the user authentication or security of any host, network, or account.
- e) Interfere with the computer networking or telecommunications service to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, and attempts to "crash" a host.
- f) Infringe any copyright, patent, trademark, trade secret or other intellectual property right registered in New Zealand, any other country or under an international agreement.

- g) Publish material which consists of any form of occult, illegal activities, racism and hate speech, violence, phishing, scams, plagiarism, hacking, stolen Internet content, Malware, Spam URL's or other unacceptable content as determined in the sole and exclusive discretion of Codos.

12. Fair Use

12.1 You can use this bandwidth for any purpose other than those outlined in our Acceptable Usage Policy (11).

12.2 The term “unmetered” or “unlimited” bandwidth means “fair use” of our services, without hidden data charges.

13. Computer Viruses

For the purposes of this clause, a “virus” is a computer program or a code or portion of a computer program which is intentionally created and programmed to cause damage to, corrupt, hinder, crash, tie up or otherwise create negative effects on a computer system. Codos shall not be responsible for any incidental, consequential or special damages, whether foreseen or foreseeable, or whether they have been informed of the possibility thereof and take no actions to prevent the same.

13.1 The Customer gives Codos the right to immediately, and at the sole and exclusive discretion of Codos, delete any file on the server systems or data network which is operating as a computer virus as defined at the discretion of Codos. The Customer also waives any right to claim against Codos in relation to damage caused by a computer virus transmitted through Codos's servers or data network. The Customer also undertakes to immediately notify Codos of any file in existence on Codos's servers or data network which is potentially a threat to the integrity, security or value of Codos's servers and data network.

14. Privacy

14.1 Codos reserves the right to disclose information about the Customer requested for a lawful purpose by a third party organisation and without limiting the total scope of what Codos will disclose. Codos will disclose information in the following circumstances:

- a) Where Codos is required to do so by law;
- b) For the purpose of the transfer of a business asset;
- c) To enforce or apply its services and other contracts; or protect the rights, property or safety of Codos, its users or others. This includes exchanging information with other companies and organisation's for fraud protection and credit risk reduction;

14.2 From time to time, Codos will collect information entered through our website, given by telephone or through electronic mail. For billing purposes, Codos will also collect credit card information and billing addresses. The Customer agrees to allow Codos to collect and hold this information for relevant business purposes.

14.3 The Customer agree that Codos may use personal information stored by Codos in order to contact the Customer by electronic mail concerning the use of services and other promotional marketing material regarding Codos's business services, operations and Products.

14.4 The Customer waives any right it may have to claim against Codos, in relation to any possible breach of privacy related legal obligations. Customer warrant that they will take all necessary steps to protect their personal information from unauthorised access, including but not limited to, signing off after the use of a publicly shared computer.

14.5 The Customer warrants that it will provide accurate, timely and the relevant information to Codos in relation to any matters which Codos may require for the purposes of updating information.

15. Inconsistency

To the extent that any dispute should arise about the inconsistency of terms in relation to this contract, the Customer will submit to the discretion of Codos to determine the interpretation of an inconsistency.

Appendix

Definition of Terms

For the purposes of these terms and conditions, the following words and expressions shall have meanings hereby assigned to them except where the context otherwise requires:

- “**Codos**”, “**us**”, “**we**” and “**our**” means Codos;
- “**Customer**”, “**You**” and “**Your**” means the party or parties who are authorised to make decisions regarding signing up/registering and understanding/accepting these terms and conditions – who utilise Products and/or services provided by Codos;
- “**DNS**” The Domain Name System (DNS) is a hierarchical naming system for computers, services, or any resource connected to the Internet or a private network. It associates various information with domain names assigned to each of the participants. Most importantly, it translates domain names meaningful to humans into the numerical (binary) identifiers associated with networking equipment for the purpose of locating and

addressing these devices worldwide. An often-used analogy to explain the Domain Name System is that it serves as the “phone book” for the Internet by translating human-friendly computer hostnames into IP addresses.

- **“IP”**, **“IP Address(s)”** The Internet Protocol (IP) is a protocol used for communicating data across a packet-switched network using the Internet Protocol Suite, also referred to as TCP/IP.
- **“WHOIS”** means the query and response protocol widely used for querying domain databases in order to determine the registrant or assignees of Internet resources, such as a domain name, an IP Address block or an autonomous system number.
- **“Network”** means any IP Data going via Codos’s network, TCP or UDP, Data transmission, digital transmission or digital communications is the physical transfer of data (a digital bit stream – is a time series of bits) over a point-to-point or point-to-multipoint communication channel. Examples of such channels are copper wires, optical fibres, wireless communication channels, and storage media. The data is represented as an electro-magnetic signal, such as an electrical voltage, radio-wave, microwave or infra-red signal.
- **“Servers”**, **“Server”** A computer, sometimes called a web server, is a computer system that provides essential services across a IP network, to private users inside a large organisation or to public Internet. Many servers have dedicated functionality such as web servers, print servers, file servers and database servers.
- **“Incident”** occurring etc. by chance in connection with something else an incidental occasion.

Acceptance of Terms and Conditions

I have read, understood and fully comprehended these terms and conditions and their full nature, extend and effect.

If I sign or purport to complete this contract on behalf of any corporate body, I accept personal responsibility for and guarantee the due performance of the body of this contract and indemnify Codos accordingly.

I understand that typing in my First, Last name, Email address and comments on Codos’s web site, I am making an electronic signature with the same nature, extent and effect of a written signature.