

# Pabodie Design Studios Web Development Agreement Terms and Conditions

## 1. Acceptance.

A copy of these Terms and conditions are always available on our website for review. Your project deposit payment indicates your acceptance of these Terms and Conditions.

## 2. Charges and Payment Schedule.

Charges for services to be provided by Pabodie Design Studios are defined in the Project Quote the Client receives via e-mail. Quotes are valid for a period of 30 days unless alternate timelines have been agreed beforehand with the Client. Pabodie Design Studios reserves the right to alter or decline to provide a quotation after expiry of the valid timeline.

All Web Development projects will require a deposit installment payment of fifty (50) percent of the Project Quote total before work will commence. The remaining balance of the Project Quote total will be due in 30 days from receipt of your deposit or before the site goes live. Charges for web development do not cover the release of source Photoshop or Flash files; if the Client requires these items then a separate quote can be prepared.

Payment for services is due via online payment through the Pabodie Design Studios Client Portal. We require a credit card on file for all client services. If you prefer to pay by check, checks must be received prior to invoice due dates to prevent your credit card on file from being charged. Checks should be made payable to Pabodie Design Studios and sent to Pabodie Design Studios, 358 Main St. Huron, OH 44839. All payments are non-refundable.

Invoices will be provided by Pabodie Design Studios for the Installment payments and for any overages or additional services ordered by Client in the course of the project development. Invoices are sent via email from our Client Portal and it is the Clients responsibility to maintain a current email address as well as current credit card billing information for their account in the Pabodie Design Studios Client Portal. Client's credit card on file will be charged as per the payment schedule indicated on the Client Quote, or if not indicated, a deposit will be charged with the order and the balance and any previously agreed upon overages will be charged thirty days following the deposit date. Invoices which remain unpaid for more than 14 days will be considered to be in default.

## 3. Client Review.

- a. Design Phase: Pabodie Design Studios will provide the Client with an initial design prototype. Site page and content programming does not commence until the final site design has been approved by the client. Design changes ordered following completion of the Design Phase may incur additional charges.
- b. Once Client approves the Design Prototype, Pabodie Design Studios will complete the project and submit it to the Client for review.
- c. Clients will submit any change requests from their review within 5 business days
- d. Pabodie Design will deliver these final modifications within 5 business days of receipt. At delivery of these final modifications, the project will be deemed to be accepted and approved unless the Client notifies Pabodie Design Studios otherwise within five (5) days of the delivery date.

## 4. Project Schedule and Content Control.

Client agrees to designate a single individual as a point-of-contact to aid Pabodie Design Studios with completing the project in a satisfactory and expedient manner.

For the majority of projects, Pabodie Design Studios will deliver the completed project by the date specified in the project proposal. If no such date is specified, the timeline shall be within four weeks of the date initial payment and website content is received from the Client, unless a delay is specifically requested by the Client and agreed to by Pabodie Design Studios. Scheduled office closings for Holidays that are within the delivery timeline will delay delivery and delivery timelines will be automatically extended based upon the number of days the Pabodie Design Studios office is closed.

Within one week of the deposit, Pabodie Design Studios will require Client to provide all content copy and images. All delivery dates depend on the timeliness of the delivery of materials and information by the Client. In the event materials are not delivered in a timely manner by the Client, then the above delivery dates are automatically extended by the number of days in which the Client materials are late. In the event Pabodie Design Studios becomes unable to deliver the site on the completion date because of events outside the control of Pabodie Design Studios, or if the Client, after the execution of this agreement, orders options or creates the necessity for overages, then Pabodie Design Studios shall give reasonable assurance of the new completion date and shall fix such date on a reasonable basis. Should Client fail to supply Pabodie Design Studios with content necessary to fully complete the project, Pabodie Design Studios will create the necessary place holders for unsupplied content and will update pages at such time as Client does provide content. **Non-supplied Client content shall in no way affect the payment schedule and Clients' credit card will automatically be charged according to the agreed upon payment schedule.** For this reason, Clients are encouraged to wait to enter into this Agreement until they are organized and ready to submit all necessary project content.

## 5. Deliverables

No items, functions, or implementations which are not specifically detailed in the Quote including but not limited to artwork, animations, logo creation, Java, Javascript, Shockwave, Flash, audio, video, movies, and other interactive elements, shall be deemed part of the estimate. Such features and/or functions are to be proposed separately as an option and upon written approval shall become part of this contract. This Agreement does not provide maintenance or upgrades. Accordingly, no additional fee will be charged to the Client for such purposes unless the Client details the changes or new functions and the parties approve the new work as an option. Other than payment for such services which are specifically set forth as part of this contract, Client recognizes that there are or may be other fees associated with operating a Website, including but not limited to Website hosting, Website statistics, visitor tracking, and domain name registration and renewal, which are not included in this contract unless specified in the Quote and are to be paid by the Client to third parties.

## 6. Default.

If the Client is in default Pabodie Design Studios can, at its discretion, suspend Clients website subscription based services. Pabodie Design Studios is not responsible for any loss of data incurred due to the suspension 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. Checks 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 Pabodie Design Studios reasonable expenses, including legal fees and costs for collection by third-party agencies, incurred by Pabodie Design Studios in enforcing these Terms and Conditions.

## 7. Training.

All Training is billed at \$75.00 an hour for training done at Pabodie Design Studios offices or for teleconference training sessions Training done at client locations is billed at \$85.00/hour including travel time or at \$650.00

per day plus travel expenses. Training is billed at the completion of the training session and is automatically charged to the Clients credit card on file.

## **8. Termination.**

Termination of the Web Development project by the Client must be requested in writing and will be effective on receipt of such notice. The Client will be invoiced for design work completed up to the date of such notice of cancellation and payment in full will be due within 7 days.

## **9. Legal Restrictions.**

Terms and Conditions relating to Hosting Accounts and usage may be found on the Pabodie Design Studios website at [www.pabodie.com](http://www.pabodie.com). Terms and Conditions relating to PDS eMarketer Accounts can be found at [www.PDSeMarketer.com](http://www.PDSeMarketer.com).

## **10. Copyright.**

The Client retains the copyright to data, files and graphic logos provided by the Client, and grants Pabodie Design Studios the rights to publish and use such material. The Client must obtain permission and rights to use any information or files that are copyrighted by a third party. The Client is further responsible for granting Pabodie Design Studios permission and rights for use of the same and agrees to indemnify and hold harmless Pabodie Design Studios from any and all claims resulting from the Client's negligence or inability to obtain proper copyright permissions. A contract for Web site design and/or placement shall be regarded as a guarantee by the Client to Pabodie Design Studios that all such permissions and authorities have been obtained. Evidence of permissions and authorities may be requested.

## **11. Reproduction Rights**

a. Upon payment of all fees hereinabove set forth, the Client shall have the right to reproduce the completed artwork as interior illustrations, appear on merchandise, form, a jacket of any packaging or software, on any book or manual thereof which it may print or publish for the packaging and instruction of the merchandise which it sells or distributes. Pabodie Design Studios has the right to reproduce the artwork and Website pages for its advertising and marketing.

b. The Website and any alteration, modification, or subsequent use of same as a Website whether in the world wide Web or similar product shall contain at the bottom of the home page an identification that it was created by Pabodie Design Studios in the form of a line of text indicating the business name, "Pabodie Design Studios," and/or Pabodie Design Studios' color logo. This link shall at all times be programmed to link to the URL (Web address) of Pabodie Design Studios' home page at <http://www.pabodie.com>. Neither the Pabodie Design Studios name nor logo may be copyrighted or trademarked by anyone other than Pabodie Design Studios, except that the identification may be reproduced for copyright or trademark purposes as part of the complete Website.

c. The services provided by Pabodie Design Studios under this agreement (the "Services") and all completed materials, products, and modifications developed by or prepared for Client by Pabodie Design Studios under this agreement and upon payment in full are the property of the Client, and all right, title, and interest therein shall vest in Client and shall be deemed a "work made for hire" made in the course of the services rendered hereunder. To the extent that title to any such works may not vest in Client by operation of law, or such works may not be considered works made for hire, all right, title, and interest therein are hereby irrevocably assigned to Client exclusively throughout the world. All such material shall belong exclusively to Client and Client shall have the right to obtain and hold in Client's own name copyrights, patents, and trademark registrations, and any other form of protection appropriate to the subject matter, and any extensions and

renewals thereof, except for the trademark, logo, or identification of Pabodie Design Studios or any archival photos, artwork, audio, or video which are in the public domain and any proprietary source files created by Pabodie Design Studios including Flash source code files. Developer agrees to give Client and any person designated by Client any reasonable assistance required to perfect the rights defined in this section.

## **12. Hosting Server.**

Unless otherwise indicated on the Quote, this estimate is based upon the website being hosted on Pabodie Design Studios Linux/Apache server or servers, supporting, CGI-BIN, SMTP, P, and SQL database technology. This site will be programmed using Javascript 1.5, Perl 5.6, and XHTML 1.1, and Flash 10, which will allow this website to be compatible with the following browsers and versions: Flock 2.0, Microsoft Internet Explorer 8.0-9.0, AOL 8.0- 10.0, opera 8-11.0 and Firefox 6 - 8.\*. The Client recognizes that because of variations in software, programming languages, and technologies that it cannot be assumed that the site will be compatible with alternate servers, earlier versions of software, or technologies or versions of software which had not been released to the public at the time of this contract. Any change in: the hosting facility including to a facility running the same software as is specified above, programming languages and versions as specified, server platform (or newer or older versions of the specified platform), installed server software, or newer or older versions of installed server software; or other changes by the Client to the above specifications may cause the site to require modifications, testing, or setup at additional expense to the Client.

## **13. Media Delivery Requirements.**

Unless otherwise specified in the Project Quote, this Agreement assumes that any text will be provided by the Client in electronic format (ASCII text files delivered via e-mail, CD-Rom, DVD, or FTP) and that all photographs and other graphics will be provided in digital form in .gif, .jpeg, .png .eps or .tiff format. Any specific requirements will be discussed and agreed with the Client prior to commencement of the project.

## **14. Access Requirements.**

If the Client's Web site is to be installed on a third-party server, Pabodie Design Studios must be granted FTP access to the Client's hosting space directories with full read/write permissions. Depending on the specific nature of the project, other resources might also need to be configured on the server.

## **15. Post Project Alterations.**

Pabodie Design Studios cannot accept responsibility for any alterations caused by the Client or a third party occurring to the Client's pages following delivery and installation. Such alterations include, but are not limited to additions, modifications or deletions. Pabodie Design Studios may require a fee for service Web Development charge before resolving any issues that may arise.

## **16. Third Party Services.**

Pabodie Design Studios may require the usage of third party services - for example, credit card processing - to complete the Client's project requirements and will ensure these services are integrated into the project and working correctly upon completion. Pabodie Design Studios cannot be held responsible for subsequent changes or issues with these third party services that may result in issues or required updates on the Client's website which may require additional development time and fees from Pabodie Design Studios before resolving any problems that may arise. In all instances Pabodie Design will provide a quote for additional services.

## **17. Domain Names.**

Pabodie Design Studios may purchase domain names on behalf of the Client, in which case they will then be renewed on an annual basis and the Client will be invoiced by Pabodie Design Studios. Reminder emails will be sent out to the client before the domain expires at ninety (90), sixty (60), thirty (30) and seven (7) days before expiration. Domains are automatically renewed and charged to your credit card on file seven days prior to expiration to allow enough time for renewal with the Registrar. Clients must notify Pabodie Design Studios that they do not wish to keep the domain thirty (30) days before the expiration date. The loss, cancellation or otherwise of the domain brought about by non-payment or late payment is not the responsibility of Pabodie Design Studios. The Client is advised to keep a personal record of the due dates for payment.

## **18. General.**

These Terms and Conditions supersede all previous representations, understandings or agreements. The Client's payment of a deposit constitutes agreement to and acceptance of these Terms and Conditions. Payment online via the Pabodie Design Studios Client Portal is an acceptance of our Terms and Conditions.

## **19. Governing Law.**

This Agreement shall be governed by Laws of the State of Ohio.

01/2011