

TERMS AND CONDITIONS

FOR WEBSITE DESIGN CLIENTS

Created: 12/3/2017

Revised: 1/1/2026

The Terms and Conditions set forth herein are included and made part of the Agreement for web design and/or Social Media Management ("Agreement") between Big W Marketing and Publishing and the Client:

The Terms and Conditions set forth herein, are legally binding, and shall apply to each and every written Agreement with Designer, for website design, social media management or other service ("Deliverables"). Should the terms of a written Agreement, provided by Designer, conflict with the terms stated herein, the terms of the written agreement shall prevail, so long as the written Agreement has been accepted by Client prior to its expiration.

E-COMMERCE

Unless expressly included in the written agreement, no e-commerce functions shall be provided, other than a link to Client's e-commerce store.

VIDEOS

Videos embedded in website shall be owned by the Client and housed on "Youtube" or other platform that provides similar embeddable code snippets.

Copyright Usage:

The rights granted to Client are for the usage of the Final Design unlimited duration, worldwide.

Payments:

Client agrees to pay Designer the fees listed in a written Agreement. Setup Fee indicated on written Agreement for website design, is due on demand, prior to commencement of design and is NON-REFUNDABLE. The initial 12 month period begins on the day the website is published. Monthly Payments are due on the 1st day of each calendar month for the total of 12 month initial term, or as otherwise provided for in the written Agreement. If the monthly payment is more than 15 days late, the website may be suspended and reinstated only after bringing account

current. If the monthly payment is more than 60 days late, the website will be permanently suspended and a new setup fee will be required in order to re-publish the website. The reinstatement fees can be negotiated, but proof of the negotiation, in the form of an email from an authorized representative of the Designer, is required for Client to prove the terms of any negotiation.

Payment and terms for logo design will be determined by the language contained in a written Agreement.

Term of Agreement:

Written Agreements for website design are for a minimum of 12 months. After the initial 12 month period, Client may choose to terminate the Agreement. Upon payment by Client and acceptance of payment by Designer, for the month following the initial or subsequent 12 month periods, the Agreement shall automatically extend for an additional 12 month period during which

regular monthly payments are due each month (except for Agreements paying annually, while all other terms and conditions remain the same. The automatic renewals for 12

month periods shall continue in perpetuity, unless and until either party notifies the other party of the desire to terminate the Agreement, 30 days prior to the end of the initial 12 month period or current renewal 12 month period. Designer may terminate the Agreement, without notice, upon discovery that the Client is using the website to or in conjunction with any other device or scheme to violate any statute, law, ordinance or rule of any jurisdiction.

Website Content:

Client shall use all reasonable efforts to provide needed information, materials and approvals in a timely manner.

Accreditation and Promotion:

Designer shall be entitled to place accreditation, as a hyperlink, in the form, size and location as incorporated by Designer in the Deliverables on each page of the Final Deliverables. Designer retains the right to reproduce, publish and display the Deliverables in Designer's portfolios and websites, in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the Deliverables in connection with

such uses.

CONFIDENTIAL INFORMATION:

All material considered confidential by either party shall be designated as confidential. Confidential Information shall not be disclosed to third parties and shall only be used as needed to perform this Agreement. Confidential Information shall not include any information that is already known by the recipient, becomes publicly known through no fault of the recipient, or is received from a third party without a restriction on disclosure.

RELATIONSHIP OF THE PARTIES:

Designer is an independent contractor. Designer shall determine, in its sole discretion, the manner and means by which the Services are accomplished. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Designer and the work product or Deliverables prepared by Designer shall not be deemed a

work for hire as defined under Copyright Law. All rights granted to Client are contractual in nature and are expressly defined by this Agreement.

COPYRIGHTED MATERIALS

REPRESENTATIONS AND WARRANTIES:

Client represents and warrants to Designer that to the best of Client's knowledge, use of the Client Content does not infringe the rights of any third party. Designer represents and warranty to Client that to the best of Designer's knowledge, the Deliverables will not violate the rights of any third parties.

INDEMNIFICATION AND LIABILITY:

- Client shall indemnify Designer from any and all damages, liabilities, costs, losses, expenses or attorney fees arising out of any claim, demand, or action by a third party due to materials included in Deliverables at the request of the Client or as a result of efforts to make Client's website more accessible and more ADA compliant.

- **Circumstances Beyond Control (Force Majeure)**The Designer shall not be liable for any delay, failure in performance, or interruption of service resulting directly or indirectly from acts, events, or circumstances beyond their reasonable control. This includes, but is not limited to: acts of God, fire, flood, strike, war, cyberattacks, third-party hosting failures, platform outages (such as WordPress, Shopify, or Webflow), loss of electricity or internet service, illness, or delays caused entirely by the Client's failure to provide necessary assets, feedback, or approvals. In such events, the timeline for project completion shall be extended by a period equal to the duration of the delay.
- The Client agrees to indemnify and hold the Designer harmless against any and all claims, costs, and expenses, including attorney's fees, due to materials included in the Work at the request of the Client for which no copyright permission or privacy release was requested, or for which uses exceed the uses allowed pursuant to a permission or release.
- The Client agrees to indemnify and hold the Designer harmless against any and all claims, costs, and expenses,

including attorney's fees, due to errors and omissions made in good faith and not the result of gross negligence.

Under no circumstances shall the liability of Designer to Client or third party, be more than the amount paid for the initial design set up.

LICENSE:

Designer grants to Client an exclusive, perpetual and worldwide license to use and display the Final Deliverables in accordance with this Agreement.

MISCELLANEOUS:

A waiver of a breach of any of the provisions of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions. All notices under this Agreement shall be given in writing by email. Notice will be effective when received. Rights or obligations under this Agreement shall not be transferred, assigned or encumbered by Client without the prior written consent of Big W. This Agreement shall be governed by the laws of the State of Florida and any legal action shall take place in the Courts of Volusia County, which shall have exclusive jurisdiction and venue. If any provision of this Agreement is held invalid or unenforceable, the remainder of this

Agreement shall remain in full force and effect. Where possible the invalid or unenforceable provision shall be interpreted in such manner as to be effective and valid under applicable law. Headings and numbering used in this Agreement are for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of this Agreement, and shall not have any legal effect.

ADA COMPLIANCE INFORMATION AND TERMS:

AI Overview from

https://www.google.com/search?q=100%25+ADA+COMPLIANCE&sca_esv=37da6120ca4cbbd6&rlz=1C1VDKB_enUS1105US1105&sxsrf=AE3TifNL3K0AfrlFhsVtV4BcH1eHPQplaA%3A1767302607730&ei=zVWacSgLN2SwbkP3YjD2Ac&ved=0ahUKEwiExJOho uRAxVdSTABHV3EEHsQ4dUDCBM&uact=5&oq=100%25+ADA+COMPLIANC E&gs_lp=Egxnd3Mtd2l6LXNlcniAiEzEwMCUgQURBIENPTVBMSUFQO0UyChA AGLADGNYEGEcYChAAGLADGNYEGEcYChAAGLADGNYEGEcYChAAGLADGN YEGEcYChAAGLADGNYEGEcYChAAGLADGNYEGEcYChAAGLADGNYEGEcY C hAAGLADGNYEGEdIpBBQAFgAcAF4AZABAjgBAKABAKoBALgBA8gBAJgCAaA CBjgDAIgGAZAGCJIHATGgBwCyBwC4BwDCBwMyLTHIBwOACAA&sclient=gw s-wiz-serp

100% ADA compliance for digital platforms, especially websites, means striving for full accessibility for people with disabilities by following Web Content Accessibility Guidelines (WCAG) 2.1 Level AA, providing features like alt text, keyboard navigation, and clear contrast, ***but true "100%" perfection isn't realistic due to evolving tech; instead, businesses aim for robust, ongoing efforts to remove barriers and ensure equal access, often using a combination of automated tools and manual audits to meet legal requirements and avoid lawsuits.

Key Principles (WCAG):

Perceivable: Information must be presentable in ways users can perceive

(e.g., alt text for images, captions for videos).

Operable: Users must be able to operate the interface (e.g., full keyboard navigation, no flashing content).

Understandable: Information and operations must be clear and predictable (e.g., readable text, clear error messages).

Robust: Content must be reliable enough for various user agents, including assistive technologies.

How to Achieve Compliance:

Follow WCAG 2.1 AA: This is the widely accepted standard for digital accessibility under the ADA.

Implement Key Features: Add alt text, ensure color contrast, enable keyboard navigation, provide transcripts/captions.

Publish an Accessibility Statement: Show your commitment and outline your efforts.

Maintain & Monitor: Accessibility is an ongoing process, not a one-time fix.

Why "100%" is a Goal, Not a Destination:

No website can be perfectly accessible to every single user or assistive technology, as technology constantly changes.

Focus on removing significant barriers for real users and demonstrating reasonable effort to avoid legal issues and serve a wider audience.

Legal Context:

The ADA requires equal access, and lawsuits are rising.

Meeting WCAG 2.1 AA standards is crucial for defense in these lawsuits.

TERMS OF BIG W's involvement in ADA.

- BIG W IS NOT contractually nor legally obligated to provide ADA compliance for their clients' websites. The obligation of ADA compliance rests solely with the Client. These terms do not create an obligation.

- At its sole discretion, BIG W may decide to make efforts to bring the Client's website into compliance at no additional cost to the client. If BIG W advises the client of such a decision. BIG W makes no representation as to the quality and completeness of its efforts, nor the timeframe for their implementation, Given that as far as ADA compliance is concerned, "100%" perfection isn't realistic". (See Above***).

o Client may "OPT OUT" of Big W's Efforts on their behalf at any time. By Failure to OPT OUT, Client agrees to these Terms of BIG W's involvement in ADA.

o Client is free to purchase ADA compliance services from a third party, but should check with BIG W to ensure that those services can be implemented on the website and server provided by BIG W.

o By offering efforts to bring the Client's website into compliance with ADA, Big W is not creating liability of Big W to the Client, nor any third party.