

# **Best Web Design**

## **Terms of Service**

### **The Services We Provide**

In exchange for the fees you pay in advance, we will provide you with our services, so long as you abide by the terms and conditions that are set out on this page, and in any other agreements that relate to the services we may provide to you. We will provide the services according to the specifications listed that you select during the signup process. For clarity, on this page, the term "Services" refers to the web design, graphic design, web hosting, domain name registration and other services that we will provide to you and, and if you are an Affiliate, the services we provide to you in connection with that program. The terms "You", "customer" or "User" means you, the customer and any other user of our services; the terms "Best Web Design" or "us" or "we" refers to Best Web Design.

### **I: Hosting**

#### **Permission to Host Your Content**

For us to host your website, it is necessary for you to upload a copy of your content to our servers (while always one or more back-up copies for yourself). When you do this uploading, you are creating one or more copies of your content, Web site, web files and other data on our system (your "User Content"). By purchasing hosting or other services from us, you acknowledge that these copies are being made, and give us the permission (a license) to maintain these copies and make them available to users of the Internet. You are solely responsible for providing all of the content and other data that make up your website, and for keeping back-up copies of those items. Please note that even though you upload a copy of your content to our servers, you must always retain a back-up copy of your content, data bases and other web-files, as in effect from time to time, so you can reload them in the event of any technical issues, such as server problems, technical or system related issues, loss of that content from our servers, etc

#### **Personal Information**

When you place an order for our services, your personal information, including your credit card information, is transmitted via the use of Secure Socket Layer technology, the industry standard for encrypting sensitive information. We take your privacy very seriously, and as such, will not sell your personal information to third party (other than a company that may purchase Best Web Design), and will take reasonable steps to keep it from being disclosed to any third party. Read more in our Privacy Policy.

You consent to be called by a representative of Best Web Design at the telephone number above and/or emailed important information about Best Web Design products and services.

#### **Backups**

We will make every attempt to retain nightly backups, which are available only for a short period in event of server failure. However, as with any data storage systems, backups can fail. We encourage you to perform your own backups on a periodic basis.

Because the Services permit Users to electronically transmit or upload content directly to the User Web site, User shall be fully responsible for uploading all content to the User Web site and supplementing, modifying and updating the User Web site, including all back-ups.

- Any file over 40MB in size will not be backed up onto our backup servers and in the event of server failure, will not be recoverable.
- Best Web Design shall not be responsible for any damages to the User Content, the User Web site or other damages or any malfunctions or service interruptions caused by any failure of the User Content or any aspect of the User Web site.
- User is solely responsible for making back-up copies of the User Web site and User Content.
- Best Web Design does not maintain backup copies of any user content or materials, including without limitation any User Web sites, data bases, web files, or e-mail or other user data or information, or other content or materials. Best Web Design cannot guarantee that the contents of a Web site will never be deleted or corrupted, or that a back-up of a Web site will always be available. Users should always keep up-to-date copies of all such materials and content to a local computer and Best Web Design strongly suggest that Users regularly make additional copies (on tape, CD, multiple floppies, another desktop, or elsewhere) to ensure the availability of such files, content or materials. .

## **Acceptable Use/Illegal Activity**

Best Web Design strives to maintain a high-level of service, and a lot of customers depend on our high standards of quality. As such, we will not provide services to those that are using our services for:

- Hacking, which includes, for example penetrating or attempting to access, without authorization, another computer or network. Port scans, stealth scans, and fraudulent credit card "phishing" techniques are also prohibited.
- Hosting of files or other data that infringes on another's copyright or other intellectual property rights.
- Spamming, or sending of bulk unsolicited email. We maintain a strict policy on spamming, which includes the sending of unauthorized commercial messages by use of our services, or by maintaining an open SMTP connection. We reserve the right to refuse or terminate service based on reasonable indications that you are engaged in spamming of any sort.
- Uploading or linking to any content that violates another's right of publicity or privacy.
- Distributing hate speech, or any other content that is obscene, abusing, which could be considered libelous and defamatory.
- Hosting, storing, or distributing child pornography. If any such content is found and brought to our attention, the proper law enforcement agencies will be notified.
- Hosting large amounts of data not specifically tied ("linked") to your hosting account. Best Web Design encourages users looking for file storage/backup solutions to seek other services that specialize in this.
- Hosting any material that, in our judgment, could be considered adult content, threatening, illegal, or violates our terms of service in any manner.

## **Content**

All services provided by Best Web Design may only be used for lawful purposes.

The customer agrees to indemnify and hold harmless Best Web Design from any claims resulting from the use of our services.

Use of our services to infringe upon any copyright or trademark is prohibited. This includes but is not limited to unauthorized copying of music, books, photographs, or any other copyrighted work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. If you believe that your copyright or trademark is being infringed upon, please contact us with the information required.

## **Examples of unacceptable material on all Shared servers include:**

IRC Bots, Proxy Scripts / Anonymizers, Pirated Software / Warez, image, filedump, mirror, or banner-ad services (similar to rapidshare, photobucket, or commercial banner ad rotation), affiliate servers, topsites, commercial audio streaming (more than one or two streams), Escrow, High-Yield Interest Programs (HYIP) or related sites, Investment sites (FOREX, egold exchange), sale of any controlled substance without prior proof of appropriate permit(s), AutoSurf sites, Bank Debentures, Bank Debenture Trading Programs, Prime Banks Programs, lottery sites, muds / rpg's, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities, IP Scanners, Brute Force Programs, Mail Bombers and Spam Scripts. Forums and or websites that distribute or link to warez content are prohibited.

Offering video and/or audio streaming or downloads, MP3 Files, Games and shareware is also not permitted on any Best Web Design server.

Using a shared account as a backup/storage device is not permitted, with the exception of one cPanel backup of the same account.

## **Examples of unacceptable material on Dedicated servers include:**

Pirated Software / Warez, Escrow, High-Yield Interest Programs (HYIP) or related sites, Investment sites (FOREX, egold exchange), sale of any controlled substance without prior proof of appropriate permit(s), AutoSurf sites, Bank Debentures, Bank Debenture Trading Programs, Prime Banks Programs, lottery sites, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities, IP Scanners, Brute Force Programs, Mail Bombers and Spam Scripts. Forums and or websites that distribute or link to warez content are prohibited.

Best Web Design services, including all related equipment, networks and network devices are provided only for authorized customer use. Best Web Design does not monitor or prescreen content that customers post on their websites. Further, Best Web Design does not systematically monitor the content that is submitted to, stored on or distributed or disseminated by User via the Service (the "User Content"). However, at our discretion from time to time, systems usage may be monitored for all lawful purposes, including ensuring that use is authorized and in compliance with our terms and conditions and standards, for management of the system, to facilitate protection against unauthorized access, and to verify security procedures, survivability and operational security. During usage monitoring, information may be examined, recorded, copied and used for authorized purposes. Use of Best Web Design system(s) constitutes consent to such system monitoring for these purposes.

However, any material that, in our judgment, could be considered adult content, threatening, illegal, or violates our terms of service in any manner may be removed from our servers (or otherwise disabled), with or without notice.

Failure to respond to email from our abuse department within 48 hours may result in the suspension or termination of your services. All abuse issues must be dealt with via support ticket/email.

If in doubt regarding the acceptability of your site or service, please contact us and we will be happy to assist you. Potential harm to minors is strictly forbidden, including but not limited to child pornography or content perceived to be child pornography (Lolita): Any site found to host child pornography or linking to child pornography will be suspended immediately without notice.

Your services will be terminated with or without notice.

Violations will be reported to the appropriate law enforcement agency. It is your responsibility to ensure that scripts/programs installed under your account are secure and permissions of directories are set properly, regardless of installation method. When at all possible, set permissions on most directories to 644 or as restrictive as possible. Users are ultimately responsible for all actions taken under their account. This includes the compromise of credentials such as username and password. It is required that you use a secure password. If a weak password is used, your account may be suspended until you agree to use a more secure password. Audits may be done to prevent weak passwords from being used. If an audit is performed, and your password is found to be weak, we will notify you and allow time for you to change/update your password. All files over 10MB must be linked from files within the same account and also publically available through any domain name attached to your account. Large files (files over 10MB) should not take up more than 40% of the data on your hosting account.

## **Zero Tolerance Spam Policy**

We take a zero tolerance stance against sending of unsolicited e-mail, bulk emailing, and spam. "Safe lists" and "double opt-in" will be treated as spam. Any user who sends out spam will have their account terminated with or without notice. Please read our Mail Policy below for further information. Sites advertised via SPAM (Spamvertised) may not be hosted on our servers. This provision includes, but is not limited to SPAM sent via fax, email, instant messaging, or usenet/newsgroups. No organization or entity listed in the ROKSO may be hosted on our servers. Any account which results in our IP space being blacklisted will be immediately suspended and/or terminated.

Best Web Design reserves the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with its established policies, or to make any such modifications in an emergency at its sole discretion. Best Web Design reserves the right in its discretion to charge the holder of the account used to send any unsolicited e-mail a clean-up fee.

## **Mail Policy**

### **Limits**

There is a 500 hourly email limit per domain - this limit is also applied towards mailman. If you send over this amount in any hour most of the e-mails will bounce back with an undeliverable error.

Many of our servers have a 60 pop checks per hour limit per e-mail address. If you go over this you're likely to get a wrong password error message saying login incorrect. Just wait an hour and it will automatically unlock you. To prevent this from happening again make sure to disable auto checking or at least set it to something higher such as 10 minutes. Any mailing list larger than 5,000 will require a semi dedicated or dedicated hosting solution. Note: dividing one large list into smaller lists to get below this limit is not allowed.

### **Mailing Lists Rules**

1. Anytime you're sending a message no matter how large your e-mail list is, you must throttle it. We recommend you throttle it to at the very least sending 1 email every 6 seconds. If the mailing list software you're using does not allow you to throttle, you must switch to something else. We recommend php list which can be found in your control panel under fantastico. If you do not throttle and you try sending, let's say 500 emails the server, it will try sending all 500 in 1 second which is not possible. This will cause the server load to go very high and for the entire server to be sluggish until this process is completed. It is our job to keep the server up and running without being sluggish. Anyone who causes the servers load to go high will be suspended and the process will be terminated. If you choose not to throttle you will most likely be suspended for crashing the server.
2. Any mailing list over 900 emails is only allowed to be sent to during off-peak times to prevent high server loads. Off peak times qualify as all day Saturday and Sunday, and 1am - 8 am eastern time Mon-Fri.
3. You are not allowed to mail to a mailing list you were given or purchased. This is spamming because they never agreed to you personally sending them mail. This is spam and will result in termination of the offending account.
4. Any unsolicited e-mail being sent will result in termination of the offending account. We take a zero tolerance stance against sending of unsolicited e-mail.
5. Any mailing list MUST comply with all guidelines set forth by the government of your country.
6. No Direct SMTP mailers are allowed. An example of this is DarkMailer. Any mail should be relayed through the local MTA (localhost:25) for further delivery by the server and not done directly by scripts.

## **Bandwidth, Disk Usage, Email and FTP accounts and other Resources.**

Best Web Design provides Users with bandwidth, disk space and other resources, such as e-mail, mysql databases, and/or file-transfer-protocol ("FTP") accounts, the amount of which is defined in Best Web Design's web pages describing the package of Services purchased at the time of purchase. In some cases, Best Web Design may not establish a specific amount of bandwidth, disk space and other resources, and refer to that as "Unlimited". In all cases, the Services are intended for normal use only, and any activity that results in excessive usage that is inconsistent with normal usage patterns is strictly prohibited. Best Web Design reserves the right to suspend, discontinue or delete the accounts of Users whose use of disk space, bandwidth or other resources results in or presents the risk of degradation of service to other customers, regardless of the amount of disk space, bandwidth or other resources included in the User's plan. User agrees that such usage shall not exceed the amounts set by Best Web Design for the Services purchased (the "Agreed Usage") and is additionally subject to normal usage guidelines established by Best Web Design as in effect from time to time. These allotments are optimized and dedicated towards serving the Content and User's active electronic mail services related solely to User's web hosting account(s) with Best Web Design.

Hosting space is intended for normal use only, and is limited to Web files, active e-mail and content of the hosted Web sites, not for storage (whether of media, e-mails, or other data). Hosting space further may not be used as offsite storage of electronic files, electronic mail or FTP hosts. You are responsible for removing any files, e-mails or other data which do not meet these requirements, and for adhering to any usage requirements or limits allocated to your account(s). Failure to do so may result in removal and deletion of such materials (including without limitation files and e-mails), and/or in discontinuation of your services or account, which actions we may take in our sole discretion.

Best Web Design may monitor User's use of bandwidth, disk usage and other resources. Best Web Design, in its sole discretion, shall have the right to take any corrective action if User's utilization of bandwidth, disk usage or other resources exceeds the Agreed Usage, or normal usage by our typical shared hosting customer, resource usage, or is used for other improper storage or usage. Such corrective action may include the assessment of additional charges, disconnection or discontinuance of any and all Services, removal or deletion of User's Web site, User Content, User's electronic mail and e-mail services and/or other materials and services or termination the User's account and of this Agreement, which actions may be taken in Best Web Design's sole and absolute discretion.

## **Unlimited Domains**

Unlimited domains refers to subdomains, parked domains and add-on domains. In all cases (even those described as "unlimited"), the Services are intended for normal use only, and any activity that results in excessive usage that is inconsistent with normal usage patterns is strictly prohibited. Best Web Design reserves the right to suspend, discontinue or delete the accounts of Users whose use of unlimited subdomains, parked domains and add-on domains results in or presents the risk of degradation of service to other customers, regardless of the amount of domains included in the User's plan. User agrees that such usage shall not exceed the amounts set by Best Web Design for the Services purchased (the "Agreed Usage") and is additionally subject to normal usage guidelines established by Best Web Design as in effect from time to time. These allotments are optimized and dedicated towards serving the Content and User's active electronic mail services related solely to User's web hosting account(s) with Best Web Design.

If Best Web Design takes any such corrective action under this section, User shall not be entitled to a refund or credit of any fees paid prior to such action. User will comply with all applicable laws, rules and regulations regarding User's Web site, User Content and/or User's electronic mail services, including use of bandwidth, disk usage and other resources and will use such services and resources only for lawful purposes. User may not utilize: the Services to copy material from third parties (including text, graphics, music, videos or other copyrightable material) without proper authorization; the Services to misappropriate or infringe the patents, copyrights, trademarks or other intellectual property rights of any third party; the Services to traffic in illegal drugs, gambling, adult content, obscene materials or any other products or services that are prohibited under applicable law; the Services to export encryption software to points outside the United States in violation of applicable export control laws; the Services to forge or misrepresent message headers, whether in whole or in part, to mask the originator of the message. If Best Web Design learns or discovers that User is violating any law related to User's Web site, User Content and/or User's electronic mail services, use of bandwidth, disk usage or other resources or Agreed Usage, Best Web Design may be obligated to or may in its discretion inform the necessary law enforcement and/or any related agency(ies) of such conduct and may provide such agency(ies) with information related to User, User's Web site, User Content and/or User's electronic mail.

User is responsible for complying with any usage requirements or limits for bandwidth, disk space or other resources, and monitoring such usage to ensure the Web site does not violate such requirements or exceed normal usage limits, Agreed Usage, or other limits allocated for the account(s) and otherwise complies with this Agreement. Best Web Design will use commercially reasonable efforts to e-mail Users who are at or near their utilization limits, but Best Web Design does not take responsibility if e-mail notification(s) is not received by the User. Best Web Design reserves the right to discontinue service through the beginning of the next month for your account in the event that it exceeds any such allotment.

## **Resource Usage**

User may not:

Use 25% or more of system resources for longer than 90 seconds. There are numerous activities that could cause such problems; these include: CGI scripts, FTP, PHP, HTTP, etc.

Run stand-alone, unattended server-side processes at any point in time on the server. This includes any and all daemons, such as IRCD.

Run any type of web spider or indexer (including Google Cash / AdSpy) on shared servers.

Run any software that interfaces with an IRC (Internet Relay Chat) network.

Run any bit torrent application, tracker, or client. You may link to legal torrents off-site, but may not host or store them on our shared servers.

Participate in any file-sharing/peer-to-peer activities

Run any gaming servers such as counter-strike, half-life, battlefield1942, etc

Run cron entries with intervals of less than 15 minutes

When using PHP include functions for including a local file, include the local file rather than the URL. Instead of include ("http://yourdomain.com/include.php") use include ("include.php")

While our shared services are suitable for the bulk of our customers, there comes a time for some websites when they are better suited for a larger plan, which allows for more dedicated CPU and memory resources. We reserve the right, in our sole discretion, to discontinue service to any customer with a website or other hosted data that takes up more than 10% of the server resources and/or 10% of the server's CPU. This means that if your website is found to be utilizing more than 10% of the CPU and memory of the service, we reserve the right to take your site offline. If this becomes necessary, you can either upgrade your hosting package, or request a pro-rated refund of the amounts you have paid in advance for the services. Due to the severity of this, and our ability to act quickly to correct these situations to avoid server issues, we will do everything reasonably feasible to provide you with a warning prior to taking your site offline, but we accept no obligation to do so.

## **INODES**

The use of more than 50,000 inodes on any shared account may potentially result in suspension. Accounts found to be exceeding the 50,000 inode limit will automatically be removed from our backup system to avoid overusage. Every file (a webpage, image file, email, etc) on your account uses up 1 inode. Sites that slightly exceed our inode limits are unlikely to be suspended; however, accounts that constantly create and delete large numbers of files on a regular basis, have hundreds of thousands of files, or cause file system damage may be flagged for review and/or suspension. Over time, tens of thousands of messages (or more) build up, eventually pushing the account past our inode limit. To disable your default mailbox, login to cPanel and choose "Mail", then "Default Address", "Set Default Address", and then type in: :fail: No such user here.

## **When the Services Will be Available**

We will attempt to provide the services 24 hours a day, 7 days a week for as long as you have paid for them. Sometimes, however, for a number of reasons, the services may be unavailable to you. You must recognize and acknowledge that due to the nature of web hosting technology, occasional unavailability of the services cannot be avoided. Sometimes there are equipment malfunctions. At other times we undertake periodic maintenance procedures or repairs. Still other times, there are causes beyond our control like power failures, interruption or failure of telecommunication or digital transmission links, hostile network attacks, network traffic and other occurrences. We have not promised to provide you with uninterrupted service.

## II: Domain Name Registration

### Registration Agreement

THIS AGREEMENT HAS A PROVISION FOR ARBITRATION OF DISPUTES BETWEEN THE PARTIES.

This Registration Agreement ("Agreement") sets forth the terms and conditions of your use of domain name registration and related services ("Services"). In this Agreement "you" and "your" refer to you and the registrant listed in the WHOIS contact information for the domain name. "We", "us" and "our" refer to the domain name registrars that Best Web Design uses to obtain your domain name, any one of which will be the registrar for your domain name and all of which share common ownership, common terms and conditions, and a shared Services infrastructure. You obtain the Services through us, with whom we have a wholesale relationship with the registrars.

1. **YOUR AGREEMENT:** By using the Services, you agree to all terms and conditions of this Agreement, the UDRP (defined below) and any rules, policies, or agreements published in association with specific Services and/or which may be adopted or enforced by the Internet Corporation for Assigned Names and Numbers ("ICANN"), any registry, or governments.
2. **CHANGES TO THIS AGREEMENT:** This Agreement may change over time, either through amendments by us, changes to ICANN policy or applicable law which may or may not be reflected in the text of this Agreement, or otherwise. Before any material changes to this Agreement become binding on you (other than changes resulting from a change in ICANN policy or applicable law), we will notify you of such changes by, for example, sending email to you at your email address of record. If, as a result of such a change, you no longer agree with the terms of this Agreement, your exclusive remedies are (a) to transfer your domain name registration services to another registrar, or (b) to cancel your domain name registration services with us. Your continued use of the Services following notification of a change in this Agreement indicates your consent to the changes. Unless otherwise specified by us, any such change binds you: (1) 30 days after we notify you of the change, or (2) immediately if such change is a result of a new or amended ICANN policy or applicable law.
3. **YOUR ACCOUNT:** You must create an account to use the Services ("Account"). Your Account is typically managed and/or provided by Best Web Design. You are solely responsible for maintaining, securing, updating, and keeping strictly confidential all login IDs and passwords, and for all access to and use of your Account by you or any third party.
  - a. **ACCOUNT CONTACT INFORMATION AND DOMAIN NAME WHOIS INFORMATION:**
    - i. You must provide certain current, complete and accurate information about you with respect to your Account information and with respect to the WHOIS information for your domain name(s). You must maintain and update this information as needed to keep it current, complete and accurate. You must submit the following with respect to you, the administrative, technical, and billing contacts for your domain name registration(s) and other Services: name, postal address, e-mail address, voice telephone number, and where available, fax number. The type of information you are required to provide may change and you must provide such information and keep your Account information current. Not providing requested information may prevent you from obtaining all Services.
    - ii. You may provide information regarding the name-servers assigned to your domain name(s) and, if we are providing name-server services to you, the DNS settings for the domain name. If you do not provide complete name-server information, or if you purchase "Name Only" Services, the registrar may supply this information (and point your domain name to a website of our choosing) until such time as you elect to supply the name-server information or until such time as you elect to upgrade from "Name Only" Services.
  - b. **OBLIGATIONS RELATING TO THE ACCOUNT AND WHOIS CONTACT INFORMATION:**
    - i. If, in obtaining Services, you provide information about or on behalf of a third party, you represent and warrant that you have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in this Agreement, and (b)

obtained the third party's express written consent to the disclosure and use of that party's information as set forth in this Agreement.

- ii. You represent and warrant that the statements in your application are true and that no Services are being procured for any unlawful purpose, including but not limited to the infringement of any intellectual property right, the unauthorized transfer to yourself or any other party of any domain name or Services, or the violation of any laws, rules, or regulations (the "Illegal Uses"). Providing inaccurate information, failing to immediately update information or engaging in any Illegal Uses will constitute an incurable material breach of this Agreement. Your failure to respond for over ten (10) calendar days to inquiries by us concerning the accuracy of Account and WHOIS contact information shall constitute an incurable material breach of this Agreement.
- iii. You are responsible for regularly monitoring email sent to the email address in your Account. You may lose your rights to the domain name(s) or your right to receive the Services if you do not respond appropriately and timely to an email sent in conjunction therewith.

c. ACCESSING YOUR ACCOUNT:

- i. In order to change any of your Account or domain name WHOIS information, you must access your Account with Best Web Design. It is your duty to safeguard your Account login identifier and password from any unauthorized use. Any person in possession of your Account login identifier and password will have both the ability and your authorization to modify your Account and domain name information, initiate transfers of your domain name(s) to other registrars, initiate registrant changes to your domain names which may terminate your rights to use such domain name(s), update DNS changes to your domain name(s) which may result in changes to the content associated with your domain name(s) and take other actions which may affect or terminate your rights and access to your domain name(s) and/or the Services.
- ii. We will take reasonable precautions to protect the information we obtain from you from loss, misuse, unauthorized access or disclosure, alteration or destruction of that information and such reasonable precautions include procedures for releasing Account access information to parties who claim to have lost Account access information. If we take reasonable precautions in relation thereto, IN NO EVENT SHALL WE BE LIABLE IF SUCH REASONABLE PRECAUTIONS DO NOT PREVENT THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD AND, EVEN IF WE FAIL TO TAKE REASONABLE PRECAUTIONS, OUR LIABILITY UNDER ANY CIRCUMSTANCES SHALL BE LIMITED BY THE LIMITATION OF LIABILITY PROVISION FOUND IN PARAGRAPH 13 BELOW IN THIS AGREEMENT.
- iii. If you contact us alleging that a third party has unauthorized access to your Account or domain names, the registrar may charge you administrative fees, currently set at \$50 (US dollars) per hour, for their time spent in relation to the matter, regardless of whether or not they return control over the Account and/or domain name(s) to you. You will indemnify us for any reasonable attorneys' fees and costs we may incur in relation to the matter, even if those fees and costs accrue as a result of defending an action, or responding to a threat of an action, initiated by You or a third party.

d. SHARING OF WHOIS INFORMATION:

- i. We will make available the domain name registration information you provide or that we otherwise maintain to the following parties: ICANN, any ICANN-authorized escrow service, the registry administrator(s), and to other third parties as ICANN and applicable laws may require or permit (including through web-based and other on-line WHOIS lookup systems), whether during or after the term of your domain name registration

services of the domain name. You irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of such information. We may make publicly available, or directly available to third parties, some, or all, of the information you provide, for purposes of inspection (such as through our WHOIS service) or for targeted marketing and other purposes as required or permitted by applicable laws, including by way of bulk WHOIS data access provided to third parties who enter into a bulk WHOIS data access agreement with us. Please [legal@name-services.com](mailto:legal@name-services.com) if you would like your WHOIS information made available for bulk access. We reserve the right to discontinue providing bulk WHOIS data access to third parties.

- ii. ICANN may establish or modify the guidelines, limits and/or requirements that relate to the amount and type of information that we may or must make available to the public or to private entities, and the manner in which such information is made available. Information regarding ICANN's guidelines and requirements regarding WHOIS can be found at <http://www.icann.org/registrars/wmrp.htm>, <http://www.icann.org/registrars/wdrp.htm>, and elsewhere on the ICANN website at <http://www.icann.org/>.

#### 4. OUR SERVICES:

##### a. DOMAIN NAME REGISTRATION.

- i. We work with accredited registrars with ICANN for generic Top Level Domain Names ("gTLDs") (such as .com, .net, .org, etc.). ICANN oversees registrations and other aspects of the gTLDs. They are also registrars for a variety of country code Top Level Domains ("ccTLDs") (such as .co.uk, .de, etc.). For a partial list of registry administrators and for more information on gTLDs, see <http://www.icann.org/tlds/>. Domain name registrations are not effective until the registry administrator puts them into effect. Domain name registrations are only for limited terms which end on the expiration date. For domain names which are created as a new registration out of the pool of available domain names, the term begins on the date the domain name registration is acknowledged by the applicable registry. For domain name registrations which were not returned to the pool of available domain names, the term begins on the date the previous registrant's domain name registration was acknowledged by the applicable registry.
- ii. The Registrar and Best Web Design are not liable or responsible in any way for any errors, omissions or any other actions by the registry administrator arising out of or related to a request to register, renew, modify the settings for, or transfer of a domain name registration. You acknowledge that domain name registration is a service, domain name registrations do not exist independently from services provided pursuant to this or a similar registration agreement with a registrar, domain name registration services do not create a property interest and you have no such property interest in any domain name(s) which you may register with us.

##### b. AFTER MARKET DOMAIN NAMES:

- i. We offer for sale domain names that are registered to third parties (also known as aftermarket domain names) in a variety of top level domain names ("TLDs") ("After Market Domain Name(s)"). All After Market Domain Name registrations are offered on a first come, first served basis. If you are the first to complete an After Market Domain Name registration application for a particular domain name, including payment of the purchase price we designate, we will initiate a transfer of the relevant After Market Domain Name to your Account. If the After Market Domain Name is at another domain registrar at the time of your purchase, we will transfer your purchased After Market Domain Name to us at no cost to you and will add one year to the existing registration period. If the After Market Domain Name is already located with us as the domain registrar at the time of your purchase and it has ninety (90) days or less from the date of your purchase before expiration, we will renew your After Market Domain for you for

free. If the After Market Domain Name is already located with us as the domain registrar at the time of your purchase and it has ninety-one (91) days or more before expiration, you are responsible for all renewal fees. Any subsequent renewals of the After Market Domain Name will be charged at the then-current renewal fee. Once you submit your order for an After Market Domain Name, you have entered into a valid, binding and enforceable contract to pay the designated purchase price for the After Market Domain Name. Because we are selling After Market Domain Names initially registered to third parties, we have no control and make no representations regarding the accuracy or legality of domain names advertised, the accuracy or legality of any domain name listing, or the right and the ability of the third party seller to transfer the After Market Domain Name or complete the transaction. We do not control whether or not third party sellers will complete a transaction. We reserve the right to reject or cancel your After Market Domain Name registration for any reason including, but not limited to, any pricing errors. In the event your After Market Domain Name registration is rejected or cancelled by us, for any reason, we will refund in full the amount of the purchase price for the After Market Domain Name as your sole remedy.

- ii. Once the After Market Domain Name is transferred into your Account, such After Market Domain Name may not be transferred away from us to another registrar during the first 60 days following the transfer, during which time the After Market Domain Name may be placed on transfer lock. All of your obligations under this Agreement which apply to the registration or renewal of domain name(s) created by you apply to any After Market Domain Name(s) acquired by you, including but not limited to prohibition against any Illegal Uses.

c. NOT INCLUDED IN THE SERVICES:

- i. We are not responsible to determine whether the domain name(s) you select, or the use you or others make of the domain name(s), or other use of the Services, infringes legal rights of others. It is your responsibility to know whether or not the domain name(s) you select or use or allow others to use infringe legal rights of others.
- ii. We might be ordered by a court or arbitrator to cancel, modify, or transfer your domain name; it is your responsibility to list accurate contact information in association with your Account and to communicate with litigants, potential litigants, and governmental authorities. It is not our responsibility to forward court orders or other communications to you. Our policy is to comply with court orders from courts of competent jurisdiction as well as UDRP Panel decisions. If you contact us informing us that you are contesting a court order from a court of competent jurisdiction, we may, but are not obligated to, place a transfer lock on the domain name pending the outcome of the dispute. If you contact us informing us that you are contesting an adverse UDRP Panel decision, your time limits and procedures to do so are subject to the requirements set forth in the UDRP. We will not delay implementation of a UDRP Panel decision based solely on your informing us that you intend to contest the decision.

d. USE OF FREE SERVICES:

- i. In consideration for providing additional optional Services for which the registrar do not charge an additional fee, including, but not limited to, free trials, URL forwarding, email forwarding, free parking page, free website hosting, free email services, or other free services which they may introduce from time to time ("Free Services"), the registrar may display advertising in conjunction therewith through the use of pop-up or pop-under browser windows, banner advertisements, audio or video streams, appendices to emails, or any other advertising means, and we may aggregate for our own use, related usage data by means of cookies and other similar means. They may discontinue any Free Services at any time with or without providing you prior notice.
- ii. From time to time we may provide you with free or low-cost domain name(s) registration services ("Promotional Name(s)"). If we do so, the services for the

Promotional Name(s) will be placed in the same Account as your other domain name(s) and you will be listed as the registrant, though we may point the Promotional Name to IP address(es) of our choosing. If you want to assume control over the services provided to the Promotional Name, including the right to transfer or push the Promotional Name service to other registrars or other Accounts or the ability to control the DNS settings for the Promotional Name, you must pay the promotional registration fee or renewal fee, if any, and the terms of this Agreement will apply to such Promotional Name(s). If you do not want the Promotional Name services, you may request that you be removed as the registrant of such Promotional Names and we may be listed as the domain name registrant or we may delete such domain names or make them available to others. For any domain name services, including these Promotional Names, for which you are listed as registrant but for which you do not pay the registration or renewal fee, we may assign name-servers to the domain name and point the domain name to IP address(es) designated by us until the registration or renewal fee is paid.

5. SERVICES PROVIDED AT WILL; TERMINATION OR SUSPENSION OF SERVICES:

- a. The Registrar and Best Web Design may reject your domain name registration application or elect to discontinue providing Services to you for any reason within 30 days of a Service initiation or a Service renewal. Outside of this period, we may terminate or suspend the Services at any time for cause, which, without limitation, includes (i) registration of prohibited domain name(s), (ii) abuse of the Services, (iii) payment irregularities, (iv) allegations of illegal conduct, (v) failure to keep your Account or WHOIS information accurate and up to date, (vi) failure to respond to inquiries from us for over ten (10) calendar days, or (vii) if your use of the Services involves us in a violation of any third party's rights or acceptable use policies, including but not limited to the transmission of unsolicited email or the violation of any copyright.
  - b. If we terminate or suspend the Services provided to you under this Agreement, we may then, at our option, make either ourselves or a third party the beneficiary of Services which are substantially similar to those which were previously provided to you. If we have grounds to terminate or suspend Services with respect to one domain name or in relation to other Services provided through your Account, we may terminate or suspend all Services provided through your Account. No fee refund will be made when there is a suspension or termination of Services for cause.
  - c. At any time and for any reason, we may terminate the Services thirty (30) days after we send notice of termination via mail or email, at our option, to the WHOIS contact information provided in association with your domain name registration. Following notice of termination other than for cause, you must transfer your domain name within such thirty (30) day notice period or risk that we may delete your domain name, transfer the registration services associated with your domain name to ourselves or a third party, or suspend or modify Services related to your domain name. If we terminate Services for a reason other than cause, we will provide a pro-rata refund of your fees.
  - d. Your registration of a domain name is subject to suspension, cancellation or transfer by any ICANN procedure now in effect or which may come into effect at a later date, by any registrar or registry administrator procedures approved by an ICANN-adopted policy or any policy adopted by any ccTLD registry or governing body, to correct mistakes by us, another registrar or the registry administrator in administering the domain name or for the resolution of disputes concerning the domain name or as a result of any government decree, rule, law or regulation.
6. FEES: You agree to pay, prior to the effectiveness of the desired Services, the applicable Service fees set forth on the Pricing Page of our website or otherwise communicated to you. In the event any of the fees for Services change, we will use reasonable efforts to give you thirty (30) days prior notice of such changes on the Pricing Page or by other reasonable means. Please check the Pricing Page often for any changes to our Services fees. All fees are non-refundable, in whole or in part, even if your domain name registration is suspended, cancelled or transferred prior to the end of your then current registration term, unless this Agreement specifically provides for a refund. At our option, we may require that you pay fees through a particular payment means (such as by credit card or by wire transfer) or that you change from one payment provider to another.

7. **PAYMENT ISSUES:** In the event of a charge back by a credit card company (or similar action by another payment provider allowed by us) in connection with your payment of fees for any Services, the registrar and/or Best Web Design may suspend access to any and all Accounts you have with us and all interests in and use of any domain name registration services, website hosting, and/or email services, including all data hosted on our systems may be assumed by us, as the case may be, or may be terminated. We may reinstate your rights to and control over these Services solely at our discretion, and subject to our receipt of the unpaid fees and our then-current reinstatement fee set forth on the Pricing Page or otherwise communicated to you. Reinstatement of Services by Best Web Design may be according to the terms between you and us relating to reinstatement. If you have an issue with credit card or other payment charges, you should contact us, first, and the registrar, second, regarding the issue before you contact your credit card or other payment process company to request a charge back or reversal of the charges.
8. **EXPIRATION AND RENEWAL OF SERVICES:** It is your responsibility to keep your own records and to maintain your own reminders regarding when your domain name registration or other Services are set to expire and to maintain current and accurate credit card information should any Services be placed on "auto-renew." We will notify you when renewal fees are due. Should these fees go unpaid, your Services will expire or be cancelled. Payment must be made by credit card, PayPal or such other method as we may allow or require from time to time. If you select automatic renewal of the Services, we may attempt to renew the Services a reasonable time before expiration, provided your credit card or other billing information is available and up to date. It is your responsibility to keep your billing information up to date and we are not required to, but may, contact you to update this information in the event that an attempted transaction is not processed successfully. Please note: for certain TLDs, the automatic renewal option is not available.
9. **EXPIRATION OF A DOMAIN NAME REGISTRATION:** Immediately after the expiration of the term of domain name registration services and before deletion of the domain name in the applicable registry's database, we may direct the domain name to name-servers and IP address(es) designated by the registrar, including, without limitation, to no IP address or to IP address(es) which host a parking page or a commercial search engine that may display advertisements, and we may either leave your WHOIS information intact or we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired domain name.
  - a. **Reactivation Period Process.** For a period of approximately 30 days after expiration of the term of domain name registration services, we may provide a procedure by which expired domain name registration services may be renewed. The registrar may, but is not obligated to, offer this process, called the "reactivation period." You assume all risks and all consequences if you wait until close to or after the expiration of the original term of domain name registration services to attempt to renew the domain name registration services. We may, in our sole discretion, choose not to offer a reactivation period and we shall not be liable therefore. The reactivation period renewal process, if any, may involve additional fees which we may determine. We may make expired domain name services(s) available to third parties, we may auction off the rights to expired domain name services (the auction beginning close to the end or after the end of the reactivation period), and/or expired domain name registration services may be re-registered to any party at any time.
  - b. After the reactivation period, we may:
    - i. Discontinue the domain name registration services at any time thereafter without notice. In which case, certain registry administrators may provide procedures by which discontinued domain name registration services may nonetheless be renewed. We may, but are not obligated to, participate in this process, typically called the "Redemption Grace Period" ("RGP"). We may, in our sole discretion, choose not to participate in the RGP process with respect to any or all of your domain name registration services and we shall not be liable therefore. If available, RGP typically ends between 30 and 42 days after the end of the reactivation period of the domain name services. There will be a RGP fee that does not include any registration fees that may also be due. We are not obliged to contact you to alert you that the domain name registration services are being discontinued; or
    - ii. Pay the registry's registration fee or otherwise provide for the registration services to be continued. In which case, we may then set the name-servers and the DNS settings for the domain name services, we may set the DNS to point to no IP address or to IP address(es) which host parking page(s) or a commercial search engine that may display paid advertisements, and we may change the contact information in the WHOIS output for the expired domain name so that you are no longer the listed registrant of the expired

domain name. We do not have to pay you any of the proceeds we may earn as a result. We are not obliged to contact you to alert you that the domain name registration services are being continued. The domain name will be designated as being in the extended redemption grace period ("ERGP"), and you will be allowed to assume, during the first 120 days of the then extant registration term, complete management of the domain name services, including the right to control the DNS settings, provided that you pay the fee set forth plus any registration fees. After the end of the 120-day period, if you do not exercise your rights under this provision, you have abandoned the domain name services, and relinquish all interests and use of the domain name services; or

- iii. If we auctioned the domain name services to a third party, we may transfer the domain name registration services to such third party. In which case, the third party who won the auction for the domain name services will control the domain name services, including control over the WHOIS information and the DNS settings. You may recover the domain name registration services for a period of up to 42 days after the end of the reactivation period, as such reactivation period applied to you. We are not obliged to contact you to alert you that the domain name registration services are or were auctioned. We do not have to pay you any of the proceeds we may earn as a result of such an auction. To exercise your rights to recover auctioned domain name services, you must contact us and provide us with a certified letter addressed to "Expiration Recovery" and include documents setting forth your identity and address, which identity and address must be the same as the registrant as it was listed in the WHOIS information for the domain name services immediately prior to expiration, a copy of a commonly accepted picture ID (such as a driver's license or passport) which supports your identity and address claim, a front and back photocopy of the credit card you used to pay for Services and you must provide a statement authorizing payment of the reinstatement fee to such credit card plus any registration fees. In doing so, you must provide us with sufficient time, in our sole discretion, to allow us to receive and evaluate your documents and to contact the auction winner prior to the end of 30 days after the end of the reactivation period of the domain name services.

#### 10. TRANSFERS:

- a. Transfer of your domain name(s) services shall be governed by ICANN's transfer policy, available at <http://www.icann.org/transfers/>, including the Registrar Transfer Dispute Resolution Policy, available at <http://www.icann.org/en/transfers/dispute-policy-12jul04.htm> as well as the UDRP as described in Section 16 of this Agreement, as these policies may be modified from time to time. To transfer your domain name(s) you should contact Best Web Design to lock or unlock your domain name(s) and/or to obtain the EPP "AuthCode" which is required to transfer domain services in an EPP registry (such as .org). Only the registrant and the administrative contacts listed in the WHOIS information may approve or deny a transfer request. Without limitation, domain name services may not be transferred within 60 days of initial registration, within 60 days of a transfer, if there is a dispute regarding the identity of the domain name registrant, if you are bankrupt, or if you fail to pay fees when due. We will follow the procedures for both gaining and losing registrars as outlined in ICANN's transfer policies. Transfer requests typically take five business days to be processed. A transfer will not be processed if, during this time, the domain name registration services expire, in which event you may need to reinstate the transfer request following a redemption of the domain name, if any. You may be required to resubmit a transfer request if there is a communication failure or other problem at either our end or at the registry. YOU ASSUME ALL RISK FOR FAILURE OF A TRANSFER WHETHER OR NOT THE TRANSFER PROCESS IS INITIATED CLOSE TO THE END OF A REGISTRATION TERM.
- b. We may place a "Registrar Lock" on your domain name services and this will prevent your domain name services from being transferred without your authorization, though we are not required to do so. By allowing your domain name services to remain locked, you provide express objection to any and all transfer requests until the lock is removed.

11. OWNERSHIP OF INFORMATION AND DATA: Best Web Design and the registrar own all database, compilation, collective and similar rights, title and interests worldwide in our domain name database, and all information and derivative works generated from the domain name database. We own the following information for those registrations for which we are the registrar: (a) the original creation date of the registration, (b) the expiration date of the registration, (c) the name, postal address, e-mail address, voice telephone number, and where available fax number of the registrant

and all contacts for the domain name registration, (d) any remarks concerning the registered domain name that appear or should appear in the WHOIS or similar database, and (e) any other information we generate or obtain in connection with the provision of Services, other than the domain name being registered, the IP addresses of the primary nameserver and any secondary nameservers for the domain name, and the corresponding names of those nameservers. We do not have any ownership interest in your specific personal registration information outside of our rights in our domain name database.

12. AGENTS AND LICENSES: If you are registering a domain name for or on behalf of someone else, you represent that you have the authority to bind that person as a principal to all terms and conditions provided herein. If you license the use of a domain name you register to us or a to third party, you remain the domain name holder of record, and remain responsible for all obligations at law and under this Agreement, including but not limited to payment obligations, and providing (and updating, as necessary) both your own full contact information, and accurate technical, administrative, billing and zone contact information adequate to facilitate timely resolution of any problems that arise in connection with the domain name and domain name registration and for ensuring non-infringement of any third party intellectual property rights.
13. LIMITATION OF LIABILITY: WE WILL NOT BE LIABLE FOR ANY (a) SUSPENSION OR LOSS OF THE SERVICES, (b) USE OF THE SERVICES, (c) INTERRUPTION OF SERVICES OR INTERRUPTION OF YOUR BUSINESS, (d) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO OUR WEB SITE(S) OR SERVICES OR DELAYS OR ACCESS INTERRUPTIONS YOU EXPERIENCE IN RELATION TO A DOMAIN NAME REGISTERED WITH US; (e) LOSS OR LIABILITY RESULTING FROM ACTS OF OR EVENTS BEYOND OUR CONTROL (f) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (g) THE PROCESSING OF AN APPLICATION FOR A DOMAIN NAME REGISTRATION; (h) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF YOUR ACCOUNT IDENTIFIER OR PASSWORD; OR (i) APPLICATION OF ANY DISPUTE POLICY. NEITHER THE REGISTRAR NOR BEST WEB DESIGN WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF WE OR YOUR PRIMARY SERVICE PROVIDER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE REGISTRAR'S OR BEST WEB DESIGN'S MAXIMUM AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR SERVICES, BUT IN NO EVENT GREATER THAN \$100.00 (US Dollars). BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, OUR LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.
14. INDEMNITY: You hereby release, indemnify, and hold Best Web Design, ICANN, the registry operators, as well as the contractors, agents, employees, officers, directors, shareholders, and affiliates of such parties harmless from and against any and all liabilities, claims, damages, costs and expenses, including reasonable attorneys' fees and court costs, for third party claims relating to or arising under this Agreement, including any breach of any of your representations, warranties, covenants or obligations set forth in this Agreement, the Services provided hereunder, or your use of the Services, including, without limitation, infringement by you, or by anyone else using the Services, of any intellectual property or other proprietary right of any person or entity, or from the violation of any of our or ICANN's operating rules or policies relating to the Services provided. We may seek written assurances from you in which you promise to indemnify and hold us harmless from the costs and liabilities described in this paragraph. Such written assurances may include, in our sole discretion, the posting of a performance bond(s) or other guarantees reasonably calculated to guarantee payment. Your failure to provide such assurances may be considered by us to be a breach of this Agreement by you and may, in our sole discretion, result in loss of your right to control the disposition of domain name Services for which you are the registrant and in relation to which we are the registrar of record. This indemnification is in addition to any indemnification (a) required under the UDRP or any other ICANN policy or any policy of any relevant registry; or (b) set forth elsewhere in this Agreement.
15. REPRESENTATIONS AND WARRANTIES: YOU REPRESENT AND WARRANT THAT NEITHER THE REGISTRATION OF A DOMAIN NAME NOR THE MANNER IN WHICH IT IS DIRECTLY OR INDIRECTLY USED NOR THE USE OF OTHER OF THE SERVICES INFRINGES THE LEGAL RIGHTS OF A THIRD PARTY OR WILL OTHERWISE SUBJECT US TO A LEGAL CLAIM. THE SERVICES ARE INTENDED FOR USE BY PERSONS WHO ARE AT LEAST 18 YEARS OLD AND BY USING THE SERVICES, YOU REPRESENT AND WARRANT THAT YOU ARE AT LEAST 18 YEARS OLD AND ALL INFORMATION PROVIDED BY YOU IN CONNECTION WITH YOUR PROCUREMENT OF THE SERVICES IS ACCURATE. ALL SERVICES ARE PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS. EXCEPT FOR OUR STATEMENT REGARDING OUR ACCREDITATION AS ICANN-APPROVED DOMAIN NAME REGISTRARS, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, INCLUDING BUT NOT LIMITED TO

WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. WITHOUT ANY LIMITATION TO THE FOREGOING, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER THAT REGISTRATION OR USE OF A DOMAIN NAME UNDER THIS AGREEMENT WILL IMMUNIZE YOU EITHER FROM CHALLENGES TO YOUR DOMAIN NAME REGISTRATION, OR FROM SUSPENSION, CANCELLATION OR TRANSFER OF THE DOMAIN NAME REGISTERED TO YOU. ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF OUR E-MAIL FORWARDING OR OTHER EMAIL SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. WE MAKE NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH OUR E-MAIL SERVICES OR ANY TRANSACTIONS ENTERED INTO THROUGH OUR E-MAIL SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

16. DISPUTE RESOLUTION POLICY: You are bound by all ICANN consensus policies and all policies of any relevant registry, including but not limited to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), which is available at <http://www.icann.org/udrp/udrp-rules-24oct99.htm> and <http://www.icann.org/dndr/udrp/policy.htm> along with the UDRP Rules and all Supplemental Rules of any UDRP provider. The UDRP may be changed by ICANN (or ICANN's successor) at any time. If the registration or reservation of your domain name is challenged by a third party, you will be subject to the provisions specified in the UDRP in effect at the time your domain name registration is disputed by the third party. In the event a domain name dispute arises with any third party, you will indemnify and hold us harmless pursuant to the terms and conditions of the UDRP. If you or your domain name are the subject of litigation, we may deposit control of your domain name record into the registry of the judicial body by providing a party with a registrar certificate.
17. GOVERNING LAW AND JURISDICTION FOR DISPUTES:
  - a. Except as otherwise set forth in the UDRP or any similar ccTLD policy, with respect to any dispute over a domain name registration, this Agreement, your rights and obligations and all actions contemplated by this Agreement shall be governed by the laws of Canada and the Province of Ontario, as if the Agreement was a contract wholly entered into and wholly performed within the Province of Ontario.
  - b. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of the agreement to arbitrate, shall be determined by arbitration in Toronto, Ontario, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Service of process on you by us in relation to any dispute arising under this Agreement may be served upon you by first class mail to the address listed by you in your Account and/or domain name WHOIS information or by electronically transmitting a true copy of the papers to the email address listed by you in your Account and/or domain name WHOIS information.
  - c. Notwithstanding the foregoing, for the adjudication of third party disputes (i.e., disputes between you and another party, not us) concerning or arising from use of domain names registered hereunder, you shall submit without objection, without prejudice to other potentially applicable jurisdictions, to the subject matter and personal jurisdiction of the courts (i) of the domicile of the registrant as it appears in the public WHOIS record for the domain name(s) in controversy, and (ii) where we are located, currently those provincial or federal courts whose geographic districts include Toronto, Ontario.
18. NOTICES: Any notices required to be given under this Agreement by us to you will be deemed to have been given if delivered in accordance with the Account and/or domain name WHOIS information you have provided.
19. GENERAL: This Agreement and all applicable ICANN policies and the policies of any relevant registry, including but not limited to the UDRP, together with all modifications, constitute the complete and exclusive agreement between you and us, and supersede and govern all prior proposals, agreements, or other communications. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

The failure of us to require your performance of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by us of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. We will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, our original objectives and intent as reflected in the original provision. This Agreement may not be amended or modified by you except by means of a written document signed by both you and an authorized representative of us.

### **III: Guarantee and Refunds**

As we explain in this paragraph, we offer you a 15 Days Money-Back Guarantee on all shared hosting plans only. Upon cancellation of your account, you may request a refund for the remainder (un-used portion) of your term, excluding any setup fees that were charged when you signed up, and excluding domain registration fees. (Even if you received your domain for free through one of our promotional plans).

**This guarantee does not apply to any other services that we offer as they are all non-refundable. Furthermore, after the initial 15 days trial period, all hosting plans are non-refundable as well.**

All refunds are subject to a domain registration fee charge according to our normal domain pricing found on our site; however upon payment of such charge you will have the opportunity to continue to register and renew registration of your domain name after cancellation of your account. To cancel your account and then request a refund, email our billing department.

Please note: Any account upgrades to hosting services such as additional domain registrations, Dedicated IP, Domain Privacy, Private SSL certificates, Search Engine Optimization (SEO), Custom Management System (CMS), web design, logo and graphic design, as well as any other web services, are non-refundable. Best Web Design also reserves the right to cancel your account should an event occur in which proper evidence exists that a customer was exceptionally rude or vulgar in communications with our staff.

### **IV: Web Design, Graphic Design, SEO, CMS, and All Other Services**

All quoted services require a 50% non-refundable deposit in advance. The other 50% is due upon completion of the service. Please note that by making the deposit for your requested service, you automatically agree to abide by the terms of this agreement. Furthermore, you are legally obligated to pay the outstanding 50% balance and any other applicable charges in full, regardless of whether you are satisfied with our service or not. If you fail to make a full payment by the completion date of our service, we reserve the right to pass your information to collection agencies and/or take legal actions against you in order to obtain the payment. You agree to be fully responsible and pay for any interest, legal, and other fees in full that may arise from this.

In the case of a web design service, ownership of the site and all relevant passwords will not be transferred to you until you have paid for the service in full.

Please note that Best Web Design tries our best to make you happy and provide you with a satisfactory service. However, there may be cases where you may not be completely satisfied. We make no warranties or guarantees in regards to the customer satisfaction of our services. As such, these services are “as is” and no refunds will be issued.

In the case of Search Engine Optimization (SEO), we make no guarantees as to the effectiveness and the results of this service. In the case of Content Management Systems (CMD) and website update/maintenance, we further make no guarantees against any undesired and unpredicted changes to your website(s). By ordering such services, you agree to take full responsibility of the contents of your site(s), as well as ensure that you have taken proper and prior steps to backing up all your data. We will not be held responsible for the loss of any of your data and files.

## **V: Other**

### **Joining Best Web Design**

When you sign up, your Best Web Design account will be enabled with autorenewal, which means that when your renewal date arrives, your hosting plan and domain will be renewed. When it is time for renewal, the credit card you have on file with us will also be charged. If you wish to not have this happen, and you would not like to renew your account, you must cancel 30 days prior to your renewal date. If you have any questions as to when your renewal date is, simply login to [best-web-design.org/billing](http://best-web-design.org/billing), or contact us. If you fail to cancel 30 days prior to renewal, your account will be renewed for a new term. Your account renew dates are always listed in [best-web-design.org/billing](http://best-web-design.org/billing).

Please note that special offers are limited-time promotional prices that are available only to new customers and are valid for the initial term only.

By renewing or using your services and products you further agree to all of Best Web Design's Terms of Services and any renewal prices.

If more than 30 days pass from the date on which any invoice for the hosting services is issued to you and we have not received payment in full, we will suspend your account, which means that your data, files and website will become in-active and cannot be accessed. If in the following 30 days you pay all amounts due, bringing your account up to date, we will take your account out of suspension and the data will be available again immediately. You must have an active method of payment upon your account for your autorenewal at all times, failure to do so can result in your account being suspended or cancelled automatically.

If, however, 30 days pass from the date on which your account is suspended and you have not made payment in full, Best Web Design shall have the right to delete all data you have uploaded to the servers. To summarize, if you get 60 days behind in making payments, your data will be deleted. You hereby acknowledge that this is Best Web Design's policy when it comes to data retention, and waive all rights in and to your data in these situations.

Best Web Design may provide Google Adword Coupons as part of our hosting packages. These coupons are available in GBP and USD and are only available to UK and USA citizens. The coupons can only be used as part of a brand new Adwords account or an account under 14 days old.

Best Web Design may also provide Facebook & MySpace ad credits, these are available in USD only and are offered exclusively to citizens of USA. Credits are available to new Facebook and MySpace advertisers only. Any such coupon or other promotional programs are further subject to the terms of any particular offer or promotion.

Invoices for renewals will be issued and charged up to 7 days in advance to ensure that we receive cleared funds for the continued hosting service and domain renewal.

Best Web Design is unable to process orders placed using virtual/pre-paid/gift cards as we are unable to accurately verify them. In such cases it is advised that you pay through a PayPal account if you have no other valid credit card to make the payment from.

### **These Terms of Service May Change**

Due to our evolving business, and the changing nature of the web hosting industry, these terms of service may change. We will post the changes here, and they will take effect when posted; your continued use of the service means you accept the changes we have made.

## **DMCA Copyright Infringement Information**

In accordance with the Digital Millennium Copyright Act, we have adopted a policy to suspend or terminate the accounts of website owners found to be in violation of copyright. We respect the intellectual property of others, and we ask you to do the same. We may, in appropriate circumstances and at our discretion, disable and/or terminate the accounts of users who may be repeat infringers. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide us with the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a description of the copyrighted work or other intellectual property that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the site;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

## **Indemnification**

If Best Web Design is sued or threatened with a lawsuit from a third party because of something you do with the services or as an affiliate, you agree to pick up the tab if Best Web Design is found liable or pays to settle the dispute. In legal terms, this is called "indemnification." Not only do you agree to reimburse Best Web Design for what it pays to satisfy a judgment or settle a case, you also agree to pay Best Web Design's reasonable attorney's fees and all other costs Best Web Design incurs in defending itself.

## **Disclaimer of Warranties**

Best Web Design EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. Best Web Design MAKES NO WARRANTY THAT ITS SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. Best Web Design DOES NOT WARRANT, NOR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR RESULTS OF, ANY OF THE SERVICES IT PROVIDES, IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

## **Limitation of Liability**

Simply stated, what this section is saying is that if something goes wrong, Best Web Design cannot be held liable for it. IN NO EVENT SHALL Best Web Design BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTIES, EITHER EXPRESS OR IMPLIED, ANY BREACH OF THIS AGREEMENT OR ITS INCORPORATED AGREEMENTS AND POLICIES, YOUR INABILITY TO USE THE SOFTWARE OR SERVICES, YOUR LOSS OF DATA OR FILES OR OTHERWISE, EVEN IF Best Web Design HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some jurisdictions may not allow such a broad exclusion or limitation on liability for damages as contained in these terms of services. In those cases, our liability is limited to the full extent permitted by law. You agree that in no event shall our maximum aggregate liability exceed the total amount paid by you for a 3-month period for the services in dispute purchased from us, or, in the event of liability of Best Web Design due to your enrollment in the affiliate program.

## **VI: Terms Applicable to Affiliates**

If you become an affiliate of Best Web Design the following terms apply to you.

### **Our Affiliate Network**

To participate as an affiliate, you are required to apply through our website. The request will be evaluated, and we will notify you in a reasonable time whether you have been accepted. At our discretion, we may decide for any reason that your site cannot participate in our network.

### **How it Works**

We provide our affiliates with a unique tracking code. This code must be placed in the HTML of your website and when clicked on will direct visitors from your site to best-web-design.org or one of our other websites. If the visitor to your site places an order in the following 90 days from the same computer (cookie tracking) or the same Internet connection (ip tracking), our automated system will track the sale and automatically credit your account.

In order for automated tracking to be successful the visitor must have clicked on your tracking pixel, have cookies and JavaScript enabled in their browser, not clear cookies or switch Internet Service Providers before placing your order. If the automated tracking fails for any reason and you wish to earn commission for this referral you must contact Best Web Design. When you contact us, please include the domain name, full name, and e-mail address of the customer you referred plus your unique affiliate URL so we may locate your account. The date and time of the order would also be helpful. Whether or not you are able to provide this specific information, there is no guarantee we will be able to issue a credit to your account. We will investigate any missed commissions to the best of our ability and if our investigation concludes in your favor, then an account credit (applicable to any Best Web Design account) may be offered.

You are responsible for the payment of all taxes related to the commissions you earn under this Agreement.

### **Commissions**

Commissions will be paid to affiliates based on successful referrals. A successful referral, or sale, is defined as: a non-fraudulent, active for a period of fifteen (15) days, not cancelled web hosting client who has paid for services in full and has been referred to us through your affiliate tracking link.

Commission may not be paid for a Referred Customer that has transferred from any of our partners or subsidiaries. Affiliates are NOT permitted to offer coupon codes except those that are automatically entered on the Best Web Design order page. If a coupon code is entered within an order of a referral then credit for the sale may not be issued.

Furthermore, Affiliates are not permitted to provide refunds or credits to their customers and Best Web Design will not pay commission if the Referred Customer has joined a business-opportunity program that is managed or participated in by the Affiliate.

There is a \$50 (one signup) minimum threshold for Commission payments.

Commission is paid on up to a maximum of one year of service paid by a Referred Customer. For example, if the customer prepays for a 3-year subscription on a hosting plan, you will get paid a commission for the first year of their subscription only.

Because of the high frequency of credit card fraud and cancellation rates, we reserve the right to hold commissions for up to 60 days for verification. We also reserve the right to cancel commissions in the event that we are unable to collect funds, the order is fraudulent, the customer cancels within the first 15 days, or if we learn that the commission was earned improperly for any other reason.

This time frame allows us to evaluate every order and assess its validity. In the event we are unable to verify the order during this time frame, we may, at our sole discretion, hold your commission or cancel the order. Cancelled commissions will not be reinstated.

Check payments will only be reissued within 120 days of original issue date in the case of a lost check or stop-payment request. After 120 days, the payment will be voided. Check cancellation fees may be applied.

It is your responsibility to keep your contact information up-to-date including your phone, email, postal address and any other information that may impact Best Web Design's ability to contact you or send your commission payment.

Best Web Design is not responsible for any third-party fees charged by PayPal, bank or other financial institute used to receive Affiliate Commission Fees.

## **Base Commissions**

Commission rates are posted on our website and will be updated from time to time. If you have received a custom commission from us in exchange for a large number of referrals, then Best Web Design may modify your account settings to reflect this. We consider custom commissions for any affiliate who is able to send five (5) or more new customers per month.

## **E-mails and Publicity**

Affiliates shall not create, publish, transmit or distribute, under any circumstances, any bulk electronic mail messages (also known as "SPAM").

## **Trademarks**

Affiliates shall not and are not authorized to (i) use the Best Web Design trademark, name or any of our other intellectual property in a domain or website name, in any bids for keywords or Google Adwords (or similar programs at other search engines), in any search engine advertising (paid or otherwise), in any metatags, key words, advertising, or search terms.

## **Affiliate Support Services**

Best Web Design will provide reasonable support services to affiliates.

## **Term of the Agreement**

The term of this affiliate agreement will begin upon our acceptance of your affiliate program application, and will end when terminated by either involved party. Either party may terminate the affiliate relationship, with or without cause, by giving written notice of termination to the other. Notice of termination must be delivered to us by email or through our site. Once terminated, you will not be eligible to receive commissions for any future referrals. If you register or renew a domain through us, you further agree to the terms of the applicable domain registration agreement of the domain registrar in question, the terms of which are incorporated herein by reference.

## **Governing Law and Choice of Form**

The laws of Canada, the province of Ontario will govern this Agreement, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the federal or provincial courts located in Toronto, Ontario, Canada.

## **When These Terms Take Effect**

This agreement becomes effective once you submit your order with us or pay for any service of ours or open an account with us of any kind or open an affiliate account. If you are an existing customer, and you do not agree with the terms herein, please cancel your account. Otherwise, if you sign up for or continue to use the services, you agree to what is written here. If you have any questions regarding these terms of service, feel free to contact us for clarification.

By using Best Web Design services you agree to the above terms of service as in effect from time to time.