

# Thomas McKee Website Design & Development Agreement Updated March 4, 2019

## Terms of Agreement

### 1. Authorization

The above-named client is engaging Thomas McKee, Inc. located at 250 N Hilton Ave, Springfield, MO 65802, as an independent contractor for the specific purpose of developing a website. Hereafter, the client will be known as the "Client" and Thomas McKee Website Design & SEO Solutions will be known as the "Developer" or "TM" or "Thomas McKee."

### 2. Proposal

The itemized proposal above will serve as the basis for this project.

### 3. Base Package / Graphic Creation

The design prototype incorporates the chosen color palette and basic design style requested by the client. The prototype is subject to review and revision by the Client dependent upon design package selected.

### 4. Text

Final website text will be supplied by the Client in electronic format unless otherwise specified in the Proposal.

### 5. Graphic Creation

It is anticipated that the Developer will create, capture or receive from the Client all the graphic elements necessary to complete the Client's website. Charges to create a company logo are not included in this agreement and are subject to separate charges.

### 6. E-commerce

Unless indicated in the proposal, this agreement does not contemplate an ecommerce enabled website, or any transaction that may require a secure server environment.

### 7. Payment Terms

For Standard and Premium websites a 50% deposit is required within 14 days of signing this agreement. For Small Business and Customized Wordpress packages payment is due at signing. **The contract balance is due before website launch.** All invoices rendered by Thomas McKee, LLC. are payable within fourteen (14) days from the date of the invoice. The Customer agrees to pay Thomas McKee in full within this time period. If the Customer fails to pay any invoice by

the due date for payment, then without prejudice to Thomas McKee's rights under this Agreement, the Customer shall also pay Thomas McKee, Inc. interest on the outstanding amount at the rate of 8% per month. A 50% deposit is collected at a minimum to cover project kickoff, project setup, staging server working space and software installation.

#### 8. Client Amends

The Developer prides himself in providing excellent customer service. That is the spirit of our agreement and the spirit of the Developer's business. To that end, we encourage input from the Client during the design process. The Developer understands, however, that Clients may request significant design changes to programming that has already been built to the Client's specification. To that end, please note that our agreement does not include a provision for "significant programming modification." Some examples of significant programming modification at the request of the Client include:

- Developing a new table or layer structure to accommodate a substantial redesign at the Client's request.
- Recreating or significantly modifying the company logo graphic at the Client's request.
- Changing navigation link graphics at the Client's request.
- Significantly reconfiguring the Client's shopping cart with new product, shipping or discount calculation, if an e-commerce enabled site has been selected by the Client.

Moderate changes, however, will always be covered during our development of the website. Again, we strive to accommodate the needs of each Client and we maintain a liberal redesign policy. We cannot, however, provide major redevelopment services to already completed stages of the project.

#### 9. Third Party or Client Page Modification

Some Clients will desire to independently edit or update their web pages or programming after completion of the site as a way to control costs and avoid the expense of a Maintenance Agreement. This is always an option for Clients of the Developer. Note however, that if the Client or an agent of the Client other than the Developer attempts to update the website and damages the design or impairs the ability for the web pages to display or function properly, time to repair the web pages will be assessed at our hourly rate. There is a one-hour minimum.

#### 10. Additional Expenses

Client agrees to reimburse the Developer for any critical Client requested expenses necessary for the completion of the project. Examples would be:

- Purchase of specific fonts at the Client's request, -
- Purchase of specific photography at the Client's request, -
- Purchase of specific software at the Client's request.

#### 11. Copyrights and Trademarks

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

## 12. Limited Liability

The Client agrees that any material submitted for publication will not contain anything leading to an abusive or unethical use of the Web Hosting Service, the Host Server or the Developer. Abusive and unethical materials and uses include, but are not limited to, pornography, obscenity, nudity, violations of privacy, computer viruses, harassment, any illegal activity, spamming, advocacy of an illegal activity, and any infringement of privacy. Client hereby agrees to indemnify and hold harmless the Developer from any claim resulting from the Client's publication of material or use of those materials. It is also understood that the Developer will not publish information over the Internet which may be used by another party to harm another. The Developer will also not develop a pornography or warez website for the Client. The Developer reserves the right to determine what is and is not pornography.

## 13. Indemnification

Developer shall defend, indemnify and hold Client, its officers, agents and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Developer, its officers, agents or employees.

Client shall defend, indemnify and hold Developer, its officers, agents and employees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Client, its officers, agents or employees.

## 14. Laws Affecting Electronic Commerce

The Client agrees that it is responsible for complying with the laws, taxes, and tariffs related to e-commerce, and will hold harmless, protect, and defend the Developer and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the client's use of Internet electronic commerce. Client also understands that the Developer cannot provide legal advice.

## 15. Ownership to Web Pages and Graphics

Copyright to the website design, photos, graphics, text, and any program(s) specifically purchased on behalf of the Client for completion of this project shall be vested with the Client upon final payment for the project. The programming code and techniques associated with the Developers Content Manager CMS product remain the property of the Developer.

#### 16. Design Credit

Client agrees that the Developer may put a byline within the footer element of the website establishing design and development credit. Client also agrees that the website created for the Client may be included in the Developer's online portfolio. Client will have review and approval authority regarding the byline integration into the footer. At a minimum the byline will consist of Developer or Design Company name and a web link.

#### 17. Cancellation

The cancellation of the project at the request of the Client must be made by certified letter. In the event that work is postponed or canceled at the request of the Client by registered letter, the Developer shall have the right to cover the development time at the Developer's current hourly rate and expenses already invested in the project. Payment is due and will be billed to the Client within 10 days of notification via registered letter to stop work.

Work performed to determine the development time will be based upon the following percentages:

- 25% Staging environment and software in place
- 25% Design elements in place and layout structure roughed in (may not be provided content)
- 30% Content provided integrated into staging site or development environment
- 10% Final Q&A
- 10% Launch

#### 18. Subscription Cancellations

If you cancel your services, your cancellation takes effect on your next billing cycle. This means we won't be able to refund you for any unused portion of your services. For example, you chose a monthly subscription of Hosting or Consulting services on July 1. On August 1, you will be charged. On August 12, you decide to cancel your subscription. No further charges will be billed, but you will not receive a refund for the period of August 13 through August 31. This subscription cancellation policy applies whether you have chosen a monthly or annual subscription plan.

#### 19. Entire Understanding

This agreement and the Proposal attached thereto constitute the sole agreement between the Developer and the Client regarding this project. It becomes effective only when signed by both parties. It is the spirit of this agreement that this will be a mutually beneficial arrangement for the Client and the Developer. Both parties

warrant that they have read and understand the terms set forth in this agreement. This agreement shall be governed and construed in accordance with the laws of the State of Missouri.