

## Our Page Designs Terms of Service Agreement

Please read this agreement in its entirety and indicate your agreement below. All users of our service will be bound by this agreement, which may be updated by us from time to time without notice to you.

This User Agreement (the '**Agreement**') governs the terms of service and use by **Client** of services offered by Our Page Designs, LLC, a division of Four-Point Holdings, LLC.. ('**Provider**').

Client agrees to receive access to the web services according to the following terms and conditions:

1. **Authorization.** The Client is engaging **OurPage Designs, LLC., a division of Four-Point Holdings, LLC.** (hereinafter referred to as "**Provider**"), as an independent contractor for the specific purpose of providing a World Wide Web site service (hereinafter referred to as "**Service Offering**").
2. **Development.** This Service Offering will be built from a template selected by Client and edited using Adobe Dreamweaver CS4, Fireworks CS4 and Photoshop CS4. Other software will also be used to aid in the design.
3. **Browser Compatibility** - Designing a Web Page to fully work in multiple browsers (and browser versions) can require considerable, extra effort. It could also involve creating multiple versions of code/pages. Designer represents that the Service Offering we design for you will function properly in the following browsers:
  - Microsoft® Internet Explorer Version 8
  - Firefox Version 3
  - Safari Version 4
4. **Scope of Work.** Service Offering provided hereby shall be made in accordance with the conditions contained on the Our Page Designs Service Offering. Additional services this offering shall be billed at an hourly rate of \$100.00 per hour.
5. **Assignment of Web Design Project.** Provider reserves the right, and you hereby agree, to assign subcontractors to this Service Offering to insure that the terms of this agreement are met as well as on-time completion.
6. **Copyrights and Trademarks.** The Client unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Provider for inclusion in the Service Offering 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, indemnify and defend Provider and its subcontractors from any liability (including attorney's fees and court costs), including any claim or suit, threatened or actual, arising from the use of such elements furnished by the Client.
7. **Web Page Maintenance.** This agreement allows for one (1) hour of website maintenance per year that subscription is in effect. Eligibility for maintenance begins after the client has subscribed and paid for six (6) months of service. Maintenance performed in excess of one (1) hour per year or prior to eligibility shall be billed at the rate \$100.00 per hour. Restoration charges are excluded from Web Page Maintenance.
8. **Completion Date.** Provider and the Client must work together to complete the work to bring the Service Offering online in a timely manner. We agree to work expeditiously to complete the Service Offering no later than 14 days after Client has submitted all necessary materials. If the Client does not supply Provider with complete text and non-template graphics content for this Service Offering within 30 days of the effective date this agreement, the entire deposit amount of the agreement shall be retained by Provider as liquidated damages and the contract shall become null and void, at Provider's option.
9. **Electronic Commerce Laws.** The Client agrees that the Client is solely responsible for complying with any laws, taxes, and tariffs applicable in any way to the Service Offering or

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any other services contemplated herein, and will hold harmless, protect, and defend Provider and its subcontractors from any claim, suit, penalty, tax, fine, penalty, or tariff arising from the Client's exercise of Internet electronic commerce and/or any failure to comply with any such laws, taxes, and tariffs.

10. **Copyright.** Copyright to the finished web design site produced by Provider will be owned by Provider. Rights to photos, graphics, source code, work-up files, and computer programs are specifically not transferred to the Client, and remain the property of their respective owners. Provider and its subcontractors retain the right to display graphics and other Web design elements as examples of their work in their respective portfolios. All examples will contain a copyright/legal statement with a link to Provider's Web Site.
11. **Software License.** The Client is assigned rights to use the Service Offering as a Web Site under the following conditions:
  - (a) All Setup Fees have been paid to Provider in full.
  - (b) Subscription Fees are current.
  - (c) The terms of this Service Agreement have not been violated by Client.
12. **Selection of Service Plan.** Client will select one of the service plans offered by Provider, and agrees to receive services according to the service plan selected.
13. **Payment for Services.** Client will pay for services provided under this Agreement to the Provider. Initial payment for all services is by major credit card. When initiating service, Client will be charged the published monthly fee for the service plan selected.
14. **Renewal.** All service plans are to be pre-paid and will automatically renew based on the term initially selected. The renewal fee will be automatically charged to the credit card on file three days prior to the end of the current period at the rate published at that time or the guaranteed rate, whichever applies. In the event that of a declined credit card, notification will be sent to the Client to allow for correction prior to the end of the current term. Unpaid renewal by Client will result in suspension of services at the conclusion of the current period.
15. **Suspended Accounts.** The suspension period for non-payment of renewal is 10 calendar days. At the conclusion of the suspension period the account will be terminated and all account files will be deleted. A fee of \$20 is charged to Client for re-activation of a suspended account.
16. **Refunds.** Client may request a full refund from Provider for any service within 3 calendar days of initiation of the service. Provider will issue refund within 10 business days following the request from Client. For plans that include server administration, accumulated server administration hours will be deducted from the refund at the rate of \$100 per hour. Limit one lifetime refund per Client.
17. **Termination.** This Agreement may be terminated by Client or Provider at any time without prior notice and without cause. If either party is in default under this Agreement (including nonpayment), then the non-defaulting party may also immediately terminate the Agreement without prior notice to the other party.
18. **Software License Purchase Option.** Client has the option to purchase the Software License granted to current Clients in section 11 at any time. Software License is available to both client subscribers and non-subscribers. The Software License price for non-subscribers is \$2250.00. Subscribers who have paid all setup fees in full have the option to purchase the Software License at a fixed price based on the number of months of previously paid service for the Service Offering:
  - 0 – 11 months \$2000.00
  - 12 – 23 months \$1750.00
  - 24 – 35 months \$1500.00
  - 36 – 47 months \$1250.00

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- 48 – 59 months \$1000.00
- 60 – 71 months \$750.00
- 72 – 83 months \$500.00
- 84 – 95 months \$250.00
- 96 months or more – No Charge

Upon purchase of Software License, Client will be granted the right to use Software on a single website. Client will be provided all Source Code and supporting database so that Client's website may be hosted by another provider. This license is granted on an As-Is basis, Provider makes no warranty of functionality on other provider's servers. Maintenance and Updates of Software purchased under this license is specifically excluded.

If a Software License is not purchased, Client will receive, upon request, a CSV text file of the content areas of the website. Ownership of all other material, unless originally supplied by Client is retained by Provider, including any Template Files, Graphics, HTML, JavaScript and Server Side – PHP Code used in the creation of the website.

19. **Compliance with Law.** Client will use the services offered by Provider in a manner consistent with all applicable local, state and federal laws and regulations.
20. **File Back-up.** Provider is not responsible for Client's files residing on Provider's servers. Client is solely responsible for independent backup of data stored on Provider's servers. In the event of data loss or corruption deemed within the control of Provider, Provider will attempt to restore data from most recent available internal or off-location back-up on a best-effort basis. Data loss by client, natural or man-made disaster will incur a restoration charge at \$100 per hour.
21. **Abuse of Unlimited Traffic.** Provider's clients are privileged to be offered unlimited traffic for their web sites. The intention of provider is to provide a large space to serve web documents, not an off site storage area for electronic files. All (90%) of your web pages (html) must be 'linked' with files (.GIF, .JPEG, etc.) stored on Four-Point's server. Web sites that are found to contain either/or no html documents, a large number of unlinked files are subject to warning, suspension or cancellation at the discretion of Provider management. Any customer who violates provider's policies in abusing either space/site transfer will be notified and given 2 days to remedy the problem. If the problem is not resolved within the allotted period, the client will be billed for the overages at normal data transfer cost of \$20.00/1GB/month.

To maintain the integrity of our shared hosting service the following limitations apply:  
Sites with banners, graphics or cgi scripts running from their domain used on other domains.  
Sites with picture galleries (This is any site where 50% of the files transferred is graphics)  
Sites offering download files or archives. (This is any site where 50% or more of there monthly traffic is from file downloads). Sites using more than 30% of system resources for longer than 60 seconds. Sites running multimedia files (QuickTime, Real Audio, Real Video, MP3).

22. **Prohibition of Publication of Certain Material.** Client shall not knowingly or unknowingly submit to Provider for publication any of the following material (including pictures, links, or any other content):

(a) any material which violates or infringes any copyright, trademark, trade secret, patent, statutory, common law or other proprietary rights of others;

(b) any material that is libelous or slanderous;

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- (c) any material which is or contains anything obscene or pornographic; or
- (d) distribution lists to be used via unsolicited electronic mail or other mass electronic mailings including but not limited to: mass-newsgroup postings, SPAM and unsolicited email sent from your server, or any other service on the Internet, which contains your domain name or any other domain name on our network
- (e) Any abuse of shell account privileges including but not limited to:
  - (a) Use of any program/script/command, or sending messages of any kind, designed to interfere with a users terminal session, via any means, locally or by the Internet.
  - (b) Attempts to circumvent the idle daemon or time charges accounting, or attempts to run programs while not logged in by any method.
  - (c) Repeated running of CPU-intensive user-compiled programs which negatively impact other system users.
  - (d) Running eggdrop or any other IRC bot which is connected to a remote IRC server.

Any violation of the above conditions will result in termination of Client's account.

Due to the public nature of the Internet, all material submitted by Client for publication will be considered publicly accessible. Provider does not screen in advance Client's material submitted to Provider for publication. Provider's publication of material submitted by Client does not create any express or implied approval by Provider of such material, nor does it indicate that such material complies with the terms of this Agreement.

**23. DISCLAIMER OF WARRANTIES.** PROVIDER'S SERVICE IS PROVIDED ON AN 'AS IS, AS AVAILABLE' BASIS.

PROVIDER SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL OR INCIDENTAL DAMAGES, EVEN IF PROVIDER HAS BEEN ADVISED BY CLIENT OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. IF PROVIDER'S SERVICE TO CLIENT IS DISRUPTED OR MALFUNCTIONS FOR ANY REASON, PROVIDER SHALL NOT BE RESPONSIBLE FOR LOSSES OF INCOME DUE TO DISRUPTION OF SERVICE, BEYOND THE FEES PAID BY CLIENT TO PROVIDER FOR SERVICES, DURING THE PERIOD OF DISRUPTION OF MALFUNCTION.

**24. Limitation/Disclaimer of Liability.** Provider is not liable for protection or privacy of electronic mail or other information transferred through the Internet or any other network provider or its customers may utilize.

Provider does not guarantee the availability of the domain name that you want, even if the domain name appears to be available at the time of your registration request. As we rely on a second party to fulfill these registrations, provider cannot be held responsible for this process. The domain name that you register is not finalized until you receive a bill from Network Solutions telling you the domain name is registered.

Provider assumes no responsibility or liability for the successful acceptance and/or registration of your proposed domain name registration.

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Provider does not represent or warrant to Client that Client will receive continual and uninterrupted service during the term of this Agreement. In no event shall Provider be liable to Client for any damages resulting from or related to any failure or delay of Provider to provide service under this Agreement if such delays or failures are due to strikes, riots, fire, inclement weather, acts of God, theft or vandalism or other causes beyond Provider's control, as defined by standard practices in the industry. Such failure or delay shall not constitute a default under this Agreement.

25. **Indemnity.** Client agrees to defend, indemnify and hold Provider harmless from and against any and all claims, losses, liabilities and expenses (including attorneys' fees) related to or arising out of the services provided by Provider to Client under this Agreement, including without limitation claims made by third parties (including customers of Client) related to any false advertising claims, liability claims for products or services sold by Client, claims for patent, copyright or trademark infringement, claims due to disruption or malfunction of services provided hereunder, or for any content submitted by Client for publication by Provider, but excluding those related to the negligence of Provider.
26. **Resale of Provider's Service.** If Client acts as a 'reseller' of the services provided by Provider to Client hereunder, by Client providing similar services to its customers, then all the terms of this Agreement shall provide to the resale. Without limiting the foregoing, Client's obligations under Section 23 ('Indemnity') shall apply to any and all claims made against Client and/or Provider which arise out of the resale of Provider's services.
27. **Governing Law/Venue.** This Agreement shall be governed by the laws of the State of Michigan. Venue for any action hereunder shall be in Livingston County, Michigan.
28. **Relationship of the Parties.** The parties intend that an independent contractor relationship will be created by this contract, and that no partnership, joint venture or employee/employer relationship is intended.
29. **Taxes.** If any federal, state or local governmental entity with taxing authority over the services provided under this Agreement imposes a tax directly on the services provided by Provider to Client under this Agreement (excluding any income, business and occupation, capital gain, death or inheritance, or other indirect taxes), then Provider may pass the direct amount of such cost on to Client, and Client shall promptly pay such cost.
30. **Waiver.** Any party's failure to insist on compliance or enforcement of any provision of this Agreement shall not affect its validity or enforceability or constitute a waiver of future enforcement of that provision or of any other provision of this Agreement.
31. **Attorneys' Fees.** If a legal proceeding is commenced to enforce or obtain a declaration of rights under this Agreement, the prevailing party in such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred in the proceeding from the non-prevailing party, as well as any reasonable attorneys' fees and costs that the prevailing party incurred prior to commencing the proceeding.
32. **IP Addresses.** Provider maintains control and any ownership of any and all IP numbers and addresses that may be assigned to Client and reserves in its sole discretion the right to change or remove any and all IP numbers and addresses.
33. **Cancellation.** In order to stop service, Client must submit a request to Our Page Designs support.
34. **Legal Notice.** Notwithstanding anything to the contrary contained in this contract, neither Provider nor any of its employees or agents, warrant that the functions contained in the Service Offering will be uninterrupted or error-free. The entire risk as to the quality and performance of the Service Offering is with the Client. In no event will Provider be liable to the Client or any third party for any damages, including, but not limited to, service interruptions caused by Acts of God, the Hosting Service or any other circumstances beyond our reasonable control, any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to operate this Service Offering, failure of any service provider, of any telecommunications carrier, of the internet

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backbone, of any internet servers, your, or your site visitor's computer or internet software, even if Provider has been advised of the possibility of such damages.

35. **This Agreement.** This agreement constitutes the sole agreement between Provider and the Client regarding this Service Offering. Any additional work not specified in this contract or any other amendment or modification to this contract must be authorized by a written request signed by both Client and Provider. All prices specified in this contract will be honored for 2 years after both parties sign this contract. Continued services after that time will require a new agreement. This Agreement constitutes the entire understanding of the parties. Any changes or modifications thereto must be in writing and signed by both parties.