

WEBSITE CONTRACT AGREEMENT

This agreement is made between WebBuilder ("WebBuilder") of Private Bag MBE 135, Takapuna, Auckland, New Zealand and the Customer ("the Customer") described in the Schedule below which forms part of this agreement.

WebBuilder agrees to provide the Customer with services for the design and development of web sites and the hosting of web sites for the Customer's business.

The Parties agree to be bound by the terms and conditions set out on the back of this form and any terms and conditions set out in the Schedule below, all of which constitute a binding agreement.

1. WEBSITE TERMS AND CONDITIONS DEFINITIONS

1.1. In this Agreement, unless the contrary intention appears:
"Charges" has the meaning set out in the Schedule
"Intellectual Property" means all copyright, trade mark, design, patent, semiconductor or circuit layout rights, trade secrets and all other intellectual property rights.
"Schedule" the schedule overleaf which forms part of this agreement

"Website" means a compilation of one or more web pages being a combination of text, data, information of whatever nature (be it numeric, graphic or textual), images and other material accessible through the world wide web and customised for the Customer. The Customer in the manner set out in the Schedule.

2. OBLIGATIONS OF WebBuilder

2.1. WebBuilder or its nominee shall:-
a). design and develop the Website for the Customer according to the Customer's specifications;
b). and shall place the Website on the web server, during the term of this Agreement and host the Website for the Customer for the fees set out in the Schedule.

3. THE CUSTOMER OBLIGATIONS

3.1. The Customer shall provide to WebBuilder within the time specified by WebBuilder or its agents all data, logos, designs, graphics and related material to be incorporated into the Website and any other information, ideas or suggestions which are to be expressly considered by WebBuilder in developing the Website.
3.2. The Customer shall be responsible for any deficiency or alleged deficiency in the Website that is attributable to incorrect or incomplete information supplied.
3.3. The Customer agrees to comply with the Content Guidelines as amended from time to time, with respect to all information and material to be incorporated into or linked to the Website and with respect to the Website itself.
3.4. The Customer shall pay to WebBuilder the Charges in the manner set out in the Application Form.

4. ACCESS AND SECURITY

4.1. This Agreement does not grant the Customer any rights to directly access the Internet or the server where the Website is located.
4.2. The Customer acknowledges that the Internet is unsecured and that WebBuilder does not guarantee privacy or security of any communications, transactions or content on the Internet.
4.3. The Customer agrees to keep secure from third parties any passwords issued to the Customer by WebBuilder in connection with the Website.

5. WEBSITE CONTENT

5.1. The Customer acknowledges that while WebBuilder does not undertake to exercise any editorial control over any material provided for inclusion in the Website:
5.1.1.1. WebBuilder may, in its absolute discretion, remove or refuse to display any material which has been the

subject of complaint or comes to its attention for any other reason; and

5.1.1.2. WebBuilder reserves the right to access any such content and to disclose it as permitted or required by any law, regulation or government request.

6. WARRANTIES AND EXCLUSIONS

The Customer warrants that it has not relied on any representations made by WebBuilder, which have not been expressly stated in this Agreement. 6.2 WebBuilder warrants that the Website will be designed and developed according to the Customer's specifications but will not be responsible if it fails to meet the Customer's requirements in the marketplace.

6.3 WebBuilder does not warrant that maintenance of the Website on the Internet will be uninterrupted or error free.

6.1. The Customer agrees that WebBuilder is not responsible for -

6.1.1.1. loss or corruption of any of the Customer's data or software, including loss or corruption resulting from the introduction of a virus; nor

6.1.1.2. any delay or failure in respect of its obligations under this Agreement which result directly or indirectly from factors outside WebBuilder's control including, but not limited to, communication loads, failure or interruption in software or services provided by third parties including the communication network and ancillary equipment.

7. EXCLUSION AND LIMITATION OF LIABILITY

7.1. Except to the extent that any liability imposed and/or terms implied by legislation cannot be excluded:

7.1.1.1. WebBuilder is not and will not become liable for any loss or damage of any kind to the Customer or any third party however caused or suffered whether the claim be in contract) or for negligence or equity and, without limiting the foregoing, WebBuilder shall not be liable in any circumstances for indirect or consequential loss (including, but not limited to, loss of data or goodwill) even if advised of the possibility of such loss; and

7.1.1.2. subject to those warranties expressly stated in this Agreement, all terms, conditions, warranties, undertakings, inducements or representations, whether express or implied, or implied under statute (including, but not limited to, any term implied relating to merchantability, fitness for purpose, supply by description or supply by sample), are expressly excluded.

7.2. To the extent that the warranties implied under the Fair Trading Act apply to the provision of the Website and any related goods or services, the liability of WebBuilder for any loss arising as a result, including economic or consequential loss, shall be limited to either replacing or repairing the Website or, in the case of services, supplying the services again.

7.3. Notwithstanding any other provision of this Agreement, WebBuilder's maximum total liability to the Customer pursuant to this Agreement shall be limited to a refund to

the Customer of the fees paid by the Customer pursuant to this Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. The Customer agree to obtain all necessary permissions (including copyright licences) and pay all royalties and fees necessary for the use of any third party materials in or in connection with the Website.

9. INDEMNITY

9.1 The Customer agree to at all times indemnify and hold harmless WebBuilder and its officers, employees and agents from and against any loss, costs or expenses (including solicitor costs on an indemnity basis) or liability incurred or suffered to the extent that such loss or liability arises from a breach by The Customer of The Customerr obligations under this Agreement.

10. TERMINATION

10.1. The Customer may terminate the hosting of the Website by WebBuilder by 30 days prior notice in writing to WebBuilder. A minimum initial three (3) months period of hosting applies.

10.2. WebBuilder may, without liability to the Customer, suspend access to the Website or terminate this Agreement at any time in its absolute discretion by giving the Customer notice in writing of its intention to do so.

10.3. If this agreement is terminated WebBuilder will disconnect and archive the Website. After a period of 1 month from the date of termination the Website may be erased.

10.4. Upon termination or expiration of this Agreement the Customer will promptly pay to WebBuilder any outstanding charges due to WebBuilder.

10.5. Termination or expiration of this Agreement shall be without prejudice to any claim either party may have against the other under this Agreement as at the date of termination or expiration.

11. GENERAL

11.1. The laws of New Zealand govern this agreement

11.2. No modification or amendment of this Agreement will be valid or binding unless made in writing and signed by or on behalf of each of the parties.