

# WebCitz, LLC

Custom Web Solutions

1045 N Lynndale Drive Ste 2H • Appleton, Wisconsin, 54914 • 888.360.0001 • [www.webcitz.com](http://www.webcitz.com)

## Service Agreement

### Client Information:

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Domain: \_\_\_\_\_

**1. Project.** The above-named Client (hereinafter referred to as "Client" or "You" or "Your") is engaging WebCitz LLC, (hereinafter referred to as "WebCitz" or "We" or "Our"), for the following project (hereinafter referred to as "Project"). The Services and Pricing page, which is subject to change without notice, is conveniently located online at [http://www.webcitz.com/web\\_design\\_services\\_pricing.html](http://www.webcitz.com/web_design_services_pricing.html) (hereinafter referred to as Annexure A):

- |  |   |
|--|---|
| <input type="checkbox"/> Website Design/Redesign   | <input type="checkbox"/> Search Engine Optimization   |
| <input type="checkbox"/> Electronic Commerce       | <input type="checkbox"/> Offline Software Development |
| <input type="checkbox"/> Content Management System | <input type="checkbox"/> Online Software Development  |
| <input type="checkbox"/> Website Hosting           | <input type="checkbox"/> Creation of Copy/Content     |
| <input type="checkbox"/> Domain Name Registration  | <input type="checkbox"/> Print Services               |
| <input type="checkbox"/> Logo Design               | <input type="checkbox"/> Other:                       |

Description and Cost of Selected Services (taxes not included):

**2. Independent Contractor.** The Client is engaging WebCitz as an independent contractor for the specific purpose of providing the services in this agreement.

**3. Authorization.** WebCitz will require full access to the Client's web hosting and domain name services in order to complete the project. If the web hosting or domain name services are provided by the Client, the Client hereby authorizes WebCitz to access those services, and

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authorizes the provider of those services to grant full access to WebCitz. Full access is defined as unrestricted access to File Transfer Protocol and Control Panel Services of the service provider. If full access is not granted it may be impossible to complete the project.

**4. Domain Names and Transfers.** WebCitz will assist the Client with the transfer or necessary modification of an existing domain name. This assistance is limited to attempting to provide the Client with contact information of the current domain name registrar. It will be the Client's responsibility to complete the transfer or modification of the domain name, as proof of ownership may be required by the existing domain name registrar before such changes are accepted.

**5. Web Hosting.** WebCitz offers web hosting as an additional service which is subject to the Terms of Use Agreement found online at [www.webcitz.com/terms/](http://www.webcitz.com/terms/). Upon the Client's request, WebCitz may attempt to transfer an existing website from the Client's existing web server to a WebCitz provided web server, provided the Client grants File Transfer Protocol (FTP) access to WebCitz.

The Client understands any furnished web hosting service will be subject to the approval of WebCitz. Furthermore, WebCitz will not provide support for any 3<sup>rd</sup> party web hosting service.

**6. Electronic Commerce.** The Client understands and agrees that all costs associated with electronic commerce are the sole responsibility of the Client. These costs include, but are not limited to: data entry, security certificates, security overviews, merchant accounts, and credit card processing.

**7. Electronic Commerce Laws.** From time to time governments enact laws and levy taxes and tariffs affecting electronic commerce. The Client understands and accepts all responsibility for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend WebCitz and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the Client's exercise of electronic commerce.

**8. Ecommerce Liability.** The Client agrees to release WebCitz and its subcontractors of any and all liability arising from the Client's exercise of electronic commerce. This includes, but is not limited to, the potential loss or theft of commercial, personal or financial data of either the Client or the Client's customers. The sole risk of engaging in electronic commerce is with the Client.

**9. Search Engine Optimization.** If this service is selected, WebCitz will attempt to increase the search result rank of the Client's website, but makes no guarantee as to the satisfaction of the service.

**10. Creation and Delivery of Content.** The Client is responsible for providing WebCitz all written content, in finalized electronic form, in a timely manner. Acceptable file formats include any Microsoft Office or Works file format.

**11. Consultations and Meetings.** The first hour of consultation is free of charge, provided it is conducted over-the-phone or at the office of WebCitz. After the first hour, the Client agrees further consultation and meetings will be billed at the hourly rate listed in Annexure A at the time of the consultation or meeting.

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**12. Hours of Operation.** WebCitz has clearly posted its hours of operation within Annexure A and will invoice the Client for any request for services to be rendered outside those normal hours of operation.

**13. Additional Work.** Any service requested by the Client, which is not detailed in this agreement, will be subject to additional costs as listed in Annexure A at the time of the request.

**14. Web Site Maintenance.** This agreement does not provide for any website maintenance. Any request for maintenance to the Client's website will be billed at the hourly rate listed in Annexure A at the time of the request.

**15. Method of Communication.** WebCitz will utilize e-mail and phone correspondence as the primary methods of contact with the Client. The Client agrees to provide WebCitz with a valid e-mail address and phone number.

**16. Completion Date.** WebCitz and the Client must work together to complete the project in a timely fashion. WebCitz agrees to work expeditiously to complete the Project as specified in Annexure A after the Client has submitted down payment, in accordance to Clause "Non-Refundable Deposit," and all necessary materials, in accordance to the Clause "Creation and Delivery of Content." The Client is responsible to provide the entire content in a timely manner and understands that WebCitz will not be responsible if the Project remains largely unfinished or is delayed, due to the Client's own inaction. The delays can also occur if any milestone that requires the Client's attention, such as approving design mockups or changes is not acknowledged on time. All notifications of any modification awaiting Client approval will be delivered via e-mail and only at the discretion of WebCitz will a phone call be made to notify the Client of changes awaiting approval. If the project is delayed, beyond the time specified in Annexure A due to Client's inaction, WebCitz may not work expeditiously to finish the project in accordance with the Client's new deadlines. WebCitz will determine the interpretation of a reasonable amount of time.

**17. Assignment of Project.** WebCitz reserves the right to assign subcontractors as necessary for the completion of this project and may at times share with the subcontractor any relevant information necessary for the completion of the project.

**18. Data Backup.** The Client will be responsible for performing all backups of any and all files, folders and databases of the Client's website and Project. WebCitz only performs backup operations of our web server to protect against catastrophic events affecting the entire web server and not a single account or website. The web hosting control panel, provided with our web hosting accounts, will allow the Client to perform backup operations. For instructions, please consult the control panel user manual at [www.cpanel.net](http://www.cpanel.net).

**19. Advertising.** WebCitz reserves the right to use and advertise any product or service designed for, or delivered to, the Client.

**20. Non-Refundable Deposit.** A non-refundable deposit of approximately 50% of the entire project will be required before any work commences:

Initial Deposit: \_\_\_\_\_

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**21. Payment Method.** All payments are to be in United States currency in the form of Cash, Check, Cashier's Check or Money Order. Do not mail cash.

**22. Payment of Invoices.** The Client agrees to pay WebCitz a 50% non-refundable deposit upon execution of this agreement. Final payment is due prior to publication and/or delivery of the project or three months from the date of this contract, whichever is earlier, regardless of whether the project is completed or not. Payments not received by the due date listed on the invoice shall be subject to a late charge of one and one-half percent (1.5%) per month of the overdue amount, where applicable by law. WebCitz reserves the right to suspend or revoke service to overdue accounts, without prior notice, until the account is paid in full. Returned checks are subject to a \$30 service fee.

**23. Cancellation Policy.** Any request for cancellation of services must be received in writing and are subject to clause "Term and Termination."

**24. Refund Policy.** Upon cancellation of services the Client may be entitled to a pro-rated refund of any prepaid Hosting Services in excess of three (3) calendar months. Domain name registration and transfer services do not have a refund policy as the product/service is transferable. All necessary refunds will be issued by WebCitz company check within 30 days of receipt of cancellation.

**25. Copyrights and Trademarks.** The Client represents to WebCitz and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to WebCitz for inclusion in this project are owned by the Client, or that the Client has written permission on file from the rightful owner to use each of these elements, and will hold harmless, protect, and defend WebCitz and its subcontractors from any claim or suit arising from the use of such elements.

Copyright to any and all products and services furnished and provided to the Client are owned by WebCitz. Upon final payment of this agreement, the Client is assigned rights to use the design, graphics, and text contained in the finished product. Rights to photos, graphics, source code, work-up files, and computer programs are specifically not transferred to the client, and remain the property of WebCitz and/or their respective owners.

**26. Choice of Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the United States and the State of Wisconsin, and the parties consent to the sole and exclusive jurisdiction of the state courts and U.S. federal courts having jurisdiction in Outagamie County, Wisconsin for any dispute arising out of this Agreement.

**27. Severability.** In the event that a court finds any provision of this Agreement invalid and/or unenforceable, both parties agree the remaining provisions shall remain valid and in force.

**28. Term and Termination.** This agreement is effective immediately after signature by both WebCitz and the Client. Client accepts the terms of this agreement by signature and initial deposit or payment for services. The agreement shall continue in force unless terminated pursuant to the following:

The Client may terminate this agreement without cause upon written notice to WebCitz via e-mail or letter forwarded to the address shown on this contract. WebCitz may terminate this

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agreement at any time by providing written notice to the Client at the email address shown on this Agreement.

Upon the termination of this agreement the following sections will survive: 6, 7, 8, 9, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31.

**29. Disclaimer of Warranty and Limitation of Liability.** THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE, WHICH ARE HEREBY DISCLAIMED.

WEBCITZ, ITS AGENTS, EMPLOYEES, VENDORS, AND SUBCONTRACTORS SHALL NOT BE LIABLE FOR (1) LOSS OR THEFT OF COMMERCIAL, PERSONAL, OR FINANCIAL DATA OF THE CLIENT OR CLIENT'S CUSTOMERS OR (2) ANY LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS OR (3) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) REGARDLESS OF THE FORM OR ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF WEBCITZ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WEBCITZ'S LIABILITY HEREUNDER SHALL NOT EXCEED THE AMOUNT PAID BY THE CLIENT TO WEBCITZ DURING THE THREE (3) MONTH PERIOD BEFORE THE ACTION AROSE. THE CLIENT UNDERSTANDS THIS IS AN INTEGRAL PART OF THE CONTRACT AND LEGAL ADVICE SHOULD BE SOUGHT TO CLARIFY ANY MISUNDERSTANDINGS.

**30. Sole Agreement.** The agreement contained in this "Service Agreement" constitutes the sole agreement between WebCitz and the Client regarding the project outlined above. Any additional work not specified in this agreement will require a separate agreement or change order and will be subject to additional costs.

The undersigned hereby agree to the terms, conditions and stipulations of this Agreement on behalf of his or her organization or business and has sought or declined legal consultation before entering into the contract. The undersigned Client hereby warrants and represents that the Client has full authority to enter into this Contract.

The people authorized to incur expenses with WebCitz, LLC are as follows:

Names: \_\_\_\_\_

**31. Faxed / Emailed Signatures.** The undersigned hereby agree and understand that facsimile (fax) signatures and scanned/mailed signatures are legally binding upon the parties. The undersigned parties further agree that electronically reproduced contracts with signatures are a valid method to use to accept a contract, to amend the contract, to give notices required by the contract, and that an electronic transmission (fax) is a commercial delivery system, the use of which complies with the contract.

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**On behalf of the Client:**

Full Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

The undersigned hereby agree(s) that I am a principal/owner of the above-referenced entity and I hereby agree to personally guarantee the terms, conditions and obligations of the Client as stated hereinbefore under this Contract:

Full Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**On behalf of WebCitz:**

Full Name: David Wurst, II

Position: Owner

Signature: \_\_\_\_\_

Date: \_\_\_\_\_