



*Breaking Ground, Building Brands*

**Big Red Design Agency Proprietary Limited**

**10 Uplands Road, Kloof, Durban, South Africa**

### **WEB SITE DESIGN AGREEMENT**

This Web Site Design Agreement ("**Agreement**") confirms the basis upon which Big Red Design Agency Proprietary Limited ("**Big Red**" or "**we**") will design and develop your ("**you**", "**your**" or "**Client**") web site ("**Web Site**").

The Web Site will be designed and developed in accordance with the project outline and specifications agreed between Big Red and the Client as to content structure, layout design, functionality and accessibility ("**Design Specifications**"), and in accordance with the following terms and conditions:

1. You hereby appoint Big Red to design and develop your Web Site, which appointment Big Red hereby accepts.
2. In consultation with you, Big Red will develop and build the Web Site for you in accordance with the Design Specifications. Any additional services are only included to the extent that they are the subject of a specific agreement with Big Red and fees therefor are agreed in advance with Big Red.
3. The Web Site will be designed for use on the Internet and, in particular, Safari, Google Chrome, Internet Explorer and Firefox, and all other commonly used Internet browsers.
4. You will be responsible at your cost for providing Big Red with a valid an active domain name and URL or Big Red can register and host the URL at the client's cost, to enable Big Red to develop the Web Site on your URL, together with unrestricted electronic access thereto. You will own all right, title and interest in and to the domain name and URL. During the development of the Web Site, Big Red will have full and unrestricted access to the URL (including full "write-permission" access to modify) the content of the Web Site.
5. The Client will provide Big Red with all the data and information needed to complete the Web Site, including text, graphics, photographs, designs, company logo, and other artwork and material that the Client wishes to have incorporated into the Web Site.
6. After receiving the items referred to in clause 5 above, Big Red will meet with the Client to review the intended purpose, look and feel and content of the proposed Web Site.
7. Big Red will submit a first draft of basic site design of the Web Site ("**First Draft**") no later than twenty (20) days after Big Red receives a copy of the Design Specifications signed by the Client, together with (i) the down payment, (ii) initial direction from the Client, (iii) the access referred to in clause 4 above, and (iv) the information referred to in clause 5 above.

8. Upon completion of the stage referred to in clause 7 above, the Client will have ten (10) days to review the First Draft and asked to confirm within that ten-day period acceptance or otherwise of the First Draft via e-mail or by signing a printed copy of the design to Big Red. Once this acceptance is received from the Client, the work necessary to complete the Web Site will continue.
9. The Client represents to Big Red and unconditionally guarantees that any elements of text, graphics, photographs, designs, trademarks, or other artwork furnished to Big Red for inclusion in web pages are owned by the Client, or that the Client has permission from the rightful owner to use each of these elements, and will hold Big Red harmless from any claim or law suit arising from the use of such elements furnished by the Client.
10. Prior to the launch of the Web Site, we will provide you basic training as to the operation of the Web Site, limited to two (2) hours during normal business hours. Any additional training thereafter will be contracted under a separate agreement between you and Big Red, with fees payable upon Big Red's then prevailing service rates.
11. Upon your request, we will provide reasonable assistance to you and third parties authorised by you to transfer (re-direct the hosting of) the Web Site to an alternate server (host) of your choice. Any such assistance will be contracted under a separate agreement between you and Big Red, with fees payable upon Big Red's then normal rates.
12. Search engine optimisation ("SEO") will be built in to the Web Site. Any SEO assistance required after completion of the Web Site will be contracted under a separate agreement between you and Big Red, with fees payable upon Big Red's then normal rates.
13. Big Red will provide reasonable responses to issues of a technical nature for a period of three (3) months from completion of the Web Site. Such assistance will be provided at no charge provided that any requested modifications to the Web Site are limited to minor text changes.
14. Any support and maintenance services not listed in this Agreement, updates, versions, or new releases are not included and will be contracted under a separate agreement between you and Big Red, with fees payable upon Big Red's then normal rates.
15. Big Red's professional fees will be payable as follows:
  - (i) 50% on signing of the Design Specifications; and
  - (ii) the balance upon completion of the Web Site or after delivery to the client of the third draft of the Web Site, whichever occurs first.
16. Big Red will invoice the Client for the amounts due as stated in clause 15. All invoices are due and payable in full within ten (10) days of date of invoice.
17. Big Red reserves the right to remove web pages from viewing on the Web Site until final payment is made.
18. All draft materials, work-up files and concepts (including without limitation, concept drawings, memoranda, notes, sketches and the like) developed and/or presented by Big Red, including the First Draft, will remain the exclusive property of Big Red (together, "**Concepts**"). You will not at any time have any right or title to:
  - (i) the Concepts other than the right to evaluate the same, and nor will any third party affiliated to, associated with or appointed by you; or
  - (ii) the design and development tools that Big Red utilises to design and/or develop web sites.

19. Big Red will transfer, assign and make available to the Client all property and materials in Big Red's possession or subject to Big Red's control that are the sole property of the Client, subject to payment by the Client in full of amounts due to Big Red pursuant to this Agreement.
20. Upon payment in full to Big Red of the fees associated with the design and development of the Web Site and subject to the provisions of clause 26, the Client will own all right, title, and interest in and to the final design of the Web Site (including all text, graphics and documentation developed by Big Red specifically and exclusively for the Web Site). Rights to photographs, third party graphics and material, computer programs are specifically not transferred to the Client, and remain the property of their respective owners.
21. You hereby grant Big Red the right to use your firm's name and service marks in our marketing materials and portfolio, and other oral, electronic, or written promotions, which will be limited to naming you as a client of Big Red, along with a brief scope of services provided.
22. You will be responsible for researching, obtaining, and filing all domain name, trademark, copyright, or other intellectual property protections for the Web Site, its look and feel, any logos, any "tag lines," or any other Web Site content or documentation designed or developed by Big Red for you.
23. Big Red warrants that, for a period of ninety (90) days from launch of the Web Site, the Web Site will operate in accordance with all the material terms of the Design Specifications, which will be the limit of Big Red's warranties in terms of this Agreement or otherwise.
24. The Client agrees that the Client is solely responsible for complying with all laws, taxes, and tariffs relating to Internet electronic commerce, privacy and data protection (together, "E-Laws"), and will hold Big Red harmless, protect, and defend Big Red and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the Client's breach or alleged breach of any E-Laws.
25. The Client agrees to defend, indemnify and hold Big Red harmless against all liabilities, costs and expenses arising out of the sale of products or provision of services over the Web Site. This includes infringing on the proprietary rights of a third party, copyright infringement, and delivering any defective product or misinformation, which is detrimental to another person, organisation, and/or business.
26. Notwithstanding anything to the contrary in this Agreement or in any other agreement between the parties to this Agreement, Big Red retains the right to publish all or any graphics created by Big Red or any of its employees or contractors in the course of the development of the Web Site in terms of this Agreement and to retain all commercial benefits derived from such publication(s).
27. Except where inconsistent with the provisions above, the General Terms and Conditions published on Big Red's website, as amended from time-to-time, will be deemed incorporated into this Agreement and will apply: <http://www.bigreddesignagency.co.za>

**Effective 1 November 2019**