



**Go Go Designs. a Bad Robot Company**  
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Bedfordview  
2008

**Appendix A**

# WEB DESIGN – TERMS & CONDITIONS

Please indicate your acceptance of this document as well as the terms and conditions contained herein by signing this page as well as initialling the remaining pages and returning the document to Go Go Designs. Please make a copy for your own records.

## Company Information

**Company Name ("The Customer"):** \_\_\_\_\_

**Authorised Person:** \_\_\_\_\_

**Company Reg No. or ID No.:** \_\_\_\_\_

**Designation:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Postal Address:** \_\_\_\_\_

**Physical Address:** \_\_\_\_\_

**Order Details:** \_\_\_\_\_

**Maintenance Contract?** \_\_\_\_\_  Yes  No

**Domain Name:** \_\_\_\_\_  .co.za  .com

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Designation**



**Fresh Web Design.**



## 1. DEFINITIONS

- 1.1. "New Technology" Means inventions, drawings, designs, technical information and developed software including but not limited to data, formulae, specifications, procedures and techniques discovered, developed or generated in the course and as a consequence of the implementation of this Proposal;
- 1.2. "Source Technology" Means inventions, drawings, designs, technical information and developed software including but not limited to know how, data, formulae, specifications, procedures and techniques in the possession of the Company as at the date of signature of this Proposal;
- 1.3. The "Company" shall mean Bad Robot (Pty) Ltd t/a Go Go Designs; a company incorporated according to the laws of the Republic of South Africa and which has its principal place of business at the above completed address.
- 1.4. The "Customer" shall mean the "Customer" as completed above with the Registration number as completed above. Constituted according to the laws of South Africa and which has its registered office at the "Customer's" physical site address as completed above.
- 1.5. "Products" Means all software and hardware provided by the Company in relation to the services rendered in terms of this Proposal.

## 2. RELATIONSHIP BETWEEN THE PARTIES

- 2.1. For the avoidance of doubt, the parties record and agree that pursuant to the implementation of this agreement the Company and the Customer shall at all times act as independent legal entities;
- 2.2. Nothing in this agreement shall constitute an employer/employee relationship or an agency or a partnership in any shape or form between the parties nor authorise either of the parties to incur any liability on behalf of the either of them, save to the extent expressly provided for herein.
- 2.3. The Company will provide the services as detailed in the Proposal and Annexure B attached hereto (the "project scope") or additional specifications to be submitted to the Company by the Customer during the development process.
- 2.4. The amount payable by the Customer to the Company for each deliverable is the amount reflected against each deliverable in the Cost Summary of the Proposal.
  - 2.4.1. All amounts are inclusive of the fees and charges of the Company for the services rendered under this Proposal, but excluding travelling and accommodation costs and expenses incurred by the Company and / or its personnel in performing the services outside a 40KM radius of the Company's office, but within the borders of South Africa, which will be:
    - 2.4.1.1. quoted, charged for and invoiced separately;
    - 2.4.1.2. calculated according to:
      - 2.4.1.2.1. rates specified by the Automobile Association of South Africa for a medium sized Sedan or;
      - 2.4.1.2.2. the cost of an economy class air ticket or;
      - 2.4.1.2.3. the rates specified for an A class rental car, as appropriate.
    - 2.4.1.3. All overseas travel and accommodation expenses incurred by the Company and which are attributable to the provision of the services as outlined in this Proposal shall be for the account of the Customer as agreed between the parties from time to time.
- 2.5. The amount payable for each deliverable shall be invoiced by the Company. All such invoice demands, shall be paid in full, without deductions or set-off within 14 (fourteen) days from date of invoice.
- 2.6. The Customer acknowledges that signature of any deliverable document or sign-off of any deliverable milestone pursuant to this Proposal will constitute acceptance and authorisation to pay any amounts invoiced as a result thereof.
- 2.7. In circumstances where the Customer is unable to make payment of the above-mentioned amounts, the Company will be entitled to invoke the provisions of clause 4.
- 2.8. All costs and expenses incurred by the Company attending to any Customer specific modification to the project necessitating a change to the functional, technical and architectural specifications in existence as at date of acceptance of the Proposal including all or any professional services rendered by the Company in performing such modifications, will constitute an additional fee to that provided for in the Cost Summary of the Proposal and to which the payment terms in clause 2.2 shall apply, mutatis mutandis.
- 2.9. No VAT Charged.
- 2.10. Fees payable for professional services rendered on a time and material basis in addition to the fees charged in the Proposal, will be invoiced monthly in arrears or after completion of the project, whichever is the soonest. The Company reserves the right to request a deposit in advance before such services are undertaken.
- 2.11. If any payment of any amount due in terms of this Proposal or any addendum to the Service Proposal is not paid within 14 (fourteen) days of date of invoice, then:
  - 2.11.1. the Company may by notice in writing request Customer to receipt same within 5 (five) days. On non-receipt of payment due, subsequent to aforesaid notice, the company may suspend the performance of its obligations in terms of this Proposal until the amount due is paid in full;
  - 2.11.2. right of use, title and ownership (where applicable) of the New Technology shall not pass to the Customer but shall vest in the Company until such payment is made in full.
- 2.12. The Company shall not be liable for any costs or damages that arise either directly or indirectly as a result of the suspension of its performances in terms of clause 2.8.1 above. Upon payment of the full amount due, any dates for performance by the Company shall be rescheduled to account for delays occasion by such suspension of performance.
- 2.13. Where the Customer fails and / or neglects or refuses to pay any of the amounts due in terms of this Proposal in full within 30 (thirty) days of date of receipt of invoice ("due date"), such failure to pay will be deemed a material breach to this Proposal and the Company shall be entitled:
  - 2.13.1. at its sole discretion to terminate this Proposal;
  - 2.13.2. such termination, being without prejudice to the Company's rights and remedies against the Customer for recovery of any amounts then remaining due or any part thereof or in respect of any antecedent breach of this Proposal





### **3. DEVELOPMENT AND DELIVERY OF DELIVERABLES**

#### **Development, Progress Reports**

- 3.1. The Company shall use its best efforts to develop each deliverable in accordance with the Specifications.
- 3.2. The Company shall first prepare a design for the Web Site. This design shall include drawings of the user interface, a schematic of how to navigate the Web Site, a list of hyperlinks and other components.
- 3.3. All development work will be performed by the Company or its employees at the Company's offices or by approved independent contractors who have executed confidentiality and assignment agreements which are acceptable to the Customer.
- 3.4. Each week following execution of this Agreement during which any development and/or testing hereunder remains uncompleted, and whenever else the Customer shall reasonably request, the Company shall contact, or meet with the Customer's representative, and report all tasks completed and problems encountered relating to development and testing of the Web Site. During such discussion or web meeting, the Company shall advise the Customer in detail of any recommended changes with respect to remaining phases of development in view of the Company's experience with the completed development. In addition, the Company shall contact the Customer's representative promptly by telephone or email upon discovery of any event or problem that will materially delay development work, and thereafter, if requested, promptly confirm such report in writing.

#### **Delivery**

- 3.5. The Company shall deliver all deliverables for the Web Site within the times specified in the Development Schedule (see Annexure A) and in accordance with the Specifications.

#### **Manner of Delivery**

- 3.6. The Company agrees to comply with all reasonable requests of the Customer as to the manner of delivery of all deliverables, which may include delivery by electronic means.

#### **Delivery of Source Materials**

- 3.7. Upon request by the Customer, but in no event later than the delivery of the final version of the Web site, the Company shall deliver to the Customer all source materials.

### **4. TESTING AND ACCEPTANCE; EFFECT OF REJECTION**

#### **Testing and Acceptance Procedure**

- 4.1. All deliverables shall be thoroughly tested by the Company and all necessary corrections as a result of such testing shall be made, prior to delivery to the Customer. Upon receipt of a deliverable, the Customer shall have a period of 2 (two) days within which to test the item ("the Acceptance Period") and to notify the Company in writing of its acceptance or rejection based on its test results with respect thereto. If the Customer has not given notice of rejection within the Acceptance Period, the Deliverable will be deemed to be accepted.
- 4.2. No delivery of a deliverable shall be considered complete unless and until the Customer has received all Documentation necessary to support the use and modification of the deliverable. If the Customer accepts the deliverable, the milestone payment for that deliverable (set forth in section 9 of the above Proposal) is then due.

#### **Correction**

- 4.3. If Customer requests that the Company correct errors in the deliverable, the Company shall within 2 (two) days of such notice, or such longer period as the Customer may allow, submit at no additional charge a revised deliverable in which such errors have been corrected. Upon receipt of the corrected deliverable, the Customer shall have an additional 2 (two) days to test the deliverable and either (1) accept it (making the milestone payment set out in section 9 of the Proposal); or (2) request that the Company make further corrections to the deliverable to meet the Specifications and repeat the correction and review procedure as set forth above;

### **5. MAINTENANCE AND SUPPORT**

- 5.1. The Company shall provide support and maintenance services in respect of the Web Site or to procure the provision thereof in accordance with the terms of a separate Maintenance Agreement to be agreed to between the parties within 10 (ten) business days after Project Start Date (see section 4 of Proposal above) and shall be negotiated in good faith by the parties.

### **6. SECURITY**

- 6.1. It is recorded that it is the intention of the parties that the Web Site shall operate in a secure computer environment and shall incorporate features and applications which shall control access to certain areas / pages of the Web Site were data are transmitted to or from and/or stored on the Web Site or any other server utilised for the purposes of the Web Site;
- 6.2. In order to ensure the secure computer environment mentioned above, the features and applications that shall deal with the security of the Web Site shall be a fundamental aspect of the design Specifications and it is recorded that the obligation of the Company to provide a secure computer environment in which the Web Site can operate shall be strictly limited to ensuring that the Web Site comply with the security requirements contained in the design Specifications and with the Customer's minimum standards communicated to the Company in writing within 7 (seven) days of the signature of this Agreement.

### **7. ALTERATIONS TO PROPOSAL**

- 7.1. The Customer will give the Company prior written notice of any proposed alterations or attachments to the Proposal.





## 8. TERMINATION, SUSPENSION AND CANCELLATION

Should either party:

- 8.1. breach any of its obligations in terms hereof and fail to remedy such breach for a period of 14 days after written notice is given to it by the party not in default, ("the aggrieved party"), or
- 8.2. be placed in liquidation or under judicial management or curatorship (in either case, whether provisionally or finally); or
- 8.3. effect a compromise with its creditors; or
- 8.4. commit any act or omission which would, in the case of an individual, be an act of insolvency in terms of Section 8 of the Insolvency Act; or
- 8.5. fail to satisfy any final judgement against it within 21 days of the date when it should reasonably have become aware of such judgement, the aggrieved party shall be entitled without prejudice to any rights which it may have in terms hereof or at law, to :
  - 8.5.1. an order for specific performance and damages;
  - 8.5.2. cancel this Agreement and claim damages,
  - 8.5.3. in addition to realising any security held by it;
  - 8.5.4. remove content from servers owned by the Company
- 8.6. Termination or cancellation of this Proposal will not affect any rights or duties arising under it with respect to the intellectual property rights of the Company or payment of charges.

## 9. WARRANTY

- 9.1. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE COMPANY GIVES NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE. WITHOUT DEROGATING FROM THE GENERALITY OF THE AFOREGOING, THE WARRANTIES OF "FITNESS FOR A PARTICULAR PURPOSE" AND "MERCHANTABILITY" ARE EXCLUDED. ANY WARRANTIES GIVEN BY THE COMPANY EXTEND SOLELY TO THE CUSTOMER.
- 9.2. Because not all errors in software can or need be corrected, the Company does not warrant that all software defects will be corrected. Similarly, the Company does not warrant that the functions contained in the software will meet the Customer's requirements or that the software will operate in all combinations selected for use by the Customer.
- 9.3. Services whether provided during any applicable warranty period in relation to the equipment or thereafter, do not cover repair or damage attributable to any matters or events referred to in clause 10.
- 9.4. The Company warrants the Web Site will conform to the Specifications. If the Web Site does not conform to the Specifications, the Company shall be responsible to correct the Web Site without unreasonable delay, at the Company sole expense and without charge to the Customer, to bring the Web Site into conformance with the Specifications;
- 9.5. This warranty shall be the exclusive warranty available to the Customer. The Customer waives any other warranty, express or implied;
- 9.6. The Customer acknowledges that the Company is not responsible for the results obtained by the Customer on the Web Site. The Customer shall be responsible for the consequences of the use of the Web Site and Documentation.
- 9.7. The Customer waives any claim for damages, direct or indirect, and agrees that its sole and exclusive remedy for damages is the return of the consideration paid to the Company as set forth in the Proposal above;
- 9.8. Save to the extent expressly recorded herein, the Company gives no warranties and makes no representations regarding the Web Site or Documentation and accordingly shall not be bound by any warranty, representation or other communication not specifically recorded herein;
- 9.9. Company shall not be liable for any indirect or consequential loss, damage, cost or expenses of any kind whatever, whether arising under contract, delict or otherwise, including without limitation, for loss of or corruption to data, loss of profits or of contracts, loss of operation time and loss of goodwill; unless damages, expenses or losses are caused by the Gross Negligence or Wilful Misconduct of the Company.

## 10. STATUTORY WARRANTY

- 10.1. The Customer warrants that it has complied with all governmental, provincial and municipal statutory requirements promulgated in relation to its principal business activities and that such compliance will exist for the currency of this Proposal.
- 10.2. The failure by the Customer to comply with the provisions of clause above will entitle the Company to terminate the Proposal in accordance with the provisions of clause 4.

## 11. FINANCIAL WARRANTY

- 11.1. The Customer warrants that in accepting and signing the Proposal, it has the necessary funds and resources to enter into the Proposal, to make timeous payments and to fulfil all financial obligations arising therefrom. To the extent that it may become necessary to do so, the Customer warrants that it will sign and do all things necessary for suretyships to be signed in favour of the Company.

## 12. INDEMNIFICATION RIGHTS

- 12.1. The following indemnification rights will apply to this Proposal and the services provided pursuant to this Proposal:
- 12.2. The parties agree to indemnify, defend and hold harmless each other from all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys fees and expenses, arising out of the death or bodily injury of any agent, employee, client, business invitee or business visitor of the indemnitor.
- 12.3. The parties agree to indemnify, defend and hold harmless the other from all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys fees and expenses, arising out of any claims of any infringement of any patent, trade secret, copyright, trade mark, service mark, trade name or similar proprietary right of any third party conferred by contract or applicable law alleged to have occurred because of software, systems or materials provided by the indemnitor.





- 12.4. The parties acknowledge that by entering into and performing their obligations under this Proposal the Company does not assume the business and operational risks associated with the business of the Customer and accordingly, the Customer agrees to indemnify, defend and hold harmless the Company from all third party claims, damages, liabilities, costs and expenses including reasonable attorneys fees and expenses arising out of the conduct out of the Customer including the use by the Customer of the services provided by the Company pursuant to the Proposal.

### 13. EXCLUSIONS

- 13.1. Services to be provided in terms of this agreement do not include services, repairs or replacements necessitated by or related to:
- 13.1.1. damage caused by abnormal operating conditions such as high or low temperatures or humidity or dust levels which are beyond the published environmental specifications of the manufacturer of the Products as provided by the Company;
  - 13.1.2. the connection of ancillary equipment, not supplied by the Company, or not approved by the manufacturer of the Products;
  - 13.1.3. the negligent use, abuse or misuse of Products by the Customer;
  - 13.1.4. damage during any transportation of Products by the Customer;
  - 13.1.5. electrical work, not performed by the Company;
  - 13.1.6. causes external to the equipment such as failure or fluctuation of electrical power;
  - 13.1.7. any fault or failure connected with the inability of the Products, or any other equipment or software attached to or interfacing with the Products, to correctly deal with a date falling after 31 December 1999, or with calculations concerning such dates and those falling before 1 January 2000.

### 14. ARBITRATION

- 14.1. In the event of any dispute or difference arising between the parties hereof relating to or arising out of this Proposal including the implementation, execution, interpretation, rectification, termination or cancellation of this Proposal, the parties shall forthwith meet to attempt to settle such dispute or difference and, failing such settlement within a period of 14 (fourteen) days, the said dispute or difference shall be submitted to arbitration to and finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by that Foundation.
- 14.2. The provisions of this clause shall continue to be binding on the parties, notwithstanding any termination or cancellation of this Proposal.

### 15. NON-SOLICITATION

- 15.1. For the duration of this Proposal and for 12 months thereafter, the Customer shall not, directly or indirectly, employ, solicit or offer employment to any employee of the Company who is or was employed or involved in the provision of the services, nor shall it solicit, entice, encourage or persuade any such employee to terminate his/her employment with the Company.

### 16. FORCE MAJEURE

- 16.1. Delay or failure to comply with or breach of any of the terms and conditions of this agreement if occasioned by or resulting from an act of God or public enemy, fire, explosion, earthquake, perils of the sea, flood, storm or other adverse weather conditions, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, strikes, blockade, embargo, sanctions, epidemics, act of any Government or other Authority, compliance with Government orders, demands or regulations, or any circumstances of like or different nature beyond the reasonable control of the party so failing, will not be deemed to be a breach of this agreement nor will it subject either party to any liability to the other.
- 16.2. Should either party be prevented from carrying out its contractual obligations by force majeure lasting continuously for a period of 30 (thirty) days, the parties will consult with each other regarding the future implementation of the contract. If no mutually acceptable arrangement is arrived at within a period of 14 (fourteen) days thereafter, either party will be entitled to terminate the agreement forthwith on written notice.

### 17. SUPPORT

- 17.1. The parties undertake at all times to do all such things, perform all such actions and take all such steps and to procure the doing of all such steps as may be open to them and necessary for or incidental to the fulfilment of the Proposal and the putting into effect or maintenance of the terms, conditions and/or import of this agreement.

### 18. CONFIDENTIALITY

- 18.1. For purposes of this Agreement, "Confidential Information" means all information (whether commercial, financial, technical or otherwise) relating to either party concerning its business, suppliers, customers, prices, method of operation and any other information which may be disclosed during the currency of this agreement or at any time thereafter to the other party or its employees, agents or representatives, but excludes any information which is in the public domain, excluding those information only accessible to users of the Web Site after submitting a user name and password to access a secure and protected page only available to that Web Site user.
- 18.2. Each party respectively undertakes, in respect of the Confidential Information disclosed by the other party:
- 18.2.1. to treat such Confidential Information as confidential during the currency of this agreement and at all times thereafter, unless such information subsequently falls within the public domain;
  - 18.2.2. that it shall not, without the prior written consent of the other party, disclose such Confidential Information or any part thereof to any person except:
    - 18.2.2.1. to employees or permitted agents, including representatives and subcontractors, who require such information in connection with the implementation of this agreement;





- 18.2.2.2. their auditors, professional advisers and other persons who may have a legal right or duty to receive knowledge of the Confidential Information;
- 18.2.3. to ensure that all persons and bodies mentioned in clause 18.2.2 above are made aware, prior to disclosure of the Confidential Information, of the confidential nature thereof, and that they owe a duty of confidence to the party whose Confidential Information is to be disclosed;
- 18.2.4. not to use such Confidential Information for its own benefit at any time except to the extent necessary for the purposes of implementing this agreement.
- 18.3. Nothing in this agreement shall prevent the Company from at any time using, for any purpose it thinks fit, any knowledge or experience, including programming tools, skills and techniques gained or arising from the development of the Web Site;
- 18.4. For the purposes of this clause the term "Confidential Information" shall also include any part thereof whether verbal, in writing or in electronic format;
- 18.5. This clause 18 shall continue in force notwithstanding the termination of this agreement for whatsoever reason.
- 18.6. This clause 18 shall survive the termination of this agreement for any reason whatsoever; and
- 18.7. Neither party shall use the name of the other in any public releases or advertising or for other promotional purposes without the prior written approval of the other party.

## 19. INTELLECTUAL PROPERTY

- 19.1. The Customer shall retain all of its intellectual property rights in any text, images or other components it owns and transmits to the Company for use in the Web Site. The Customer shall hold the copyright for the agreed upon version of the Web Site as delivered, and the Customer's copyright notice may be displayed in the final version. The Customer shall hold all right, title, and interest in and to the source code, programming and original artwork created for the project. Specifically, but without limitation, the Customer shall hold rights, title, and interest in and to, unless otherwise specifically agreed to between the Parties in writing:
  - 19.1.1. all text, graphics, animation, audio components, and digital components of the Web Site (the "Content") created by the Company,
  - 19.1.2. all interfaces, navigational devices, menus, menu structures or arrangements, icons, help and other operational instructions, and all other components of any source or object computer code that comprises the Web Site created by the Company,
  - 19.1.3. all literal and nonliteral expressions of ideas that operate, cause, create, direct, manipulate, access, or otherwise affect the content created by the Company,
  - 19.1.4. all copyrights, patents, trade secrets, and other intellectual or industrial property rights in the Web Site or any component or characteristic thereof created by the Company. The Company shall not do anything that may infringe upon or in any way undermine Customer' right, title, and interest in the Web Site, as described in this paragraph and hereby waive all moral rights in terms of the Web Site
- 19.2. In respect of any pre-existing functional components that have been customized by the Company for the Customer in terms of this Proposal, the Company grants to the Customer a non-exclusive perpetual license without the payment of a consideration, to use the source code in and to the customized proportion of the Website.
- 19.3. The intellectual property right in any pre-existing applications, including web modules, owned by the Company or by any third party, which are utilized by the Company in the development of the Website in terms of the proposal, shall be retained by the Company and/or the third party respectively, and shall not vest in the Customer.
- 19.4. Ownership of all the Customers marks and the Company marks shall remain vested in the Customer and the Company respectively,

## 20. GENERAL PROVISIONS

### 20.1. Entire Agreement.

This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes any and all prior agreements or understandings, written or oral, between the parties related to the subject matter hereof. No modification of this Agreement shall be valid unless made in writing and signed by both of the parties hereto. The terms and conditions of this Proposal will supersede all other terms and conditions submitted by the Customer, and all and any written and oral communications between the parties.

This Agreement (including Proposal) may be modified or added to only by a written addendum signed by a duly authorised representative of each party.

### 20.2. Jurisdiction and Governing Law.

This Agreement shall be governed and interpreted according to the laws of South Africa. The parties agree that any legal action or proceedings arising out of or in connection with this Agreement shall be brought in a South African Court and the parties submit irrevocably to such jurisdiction.

### 20.3. Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the Customer and the Company and their respective successors and assigns, provided that the Company may not assign any of his obligations under this Agreement without the Customer's prior written consent.

### 20.4. Waiver.

No waiver of any of the terms and conditions of this agreement will be binding or effectual for any purpose unless expressed in writing and signed by the party hereto giving the same, and any such waiver will be effective only in the specific instance and the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

### 20.5. Survival of obligations

Any provision of this Agreement, which contemplates performance or observance subsequent to any termination, or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect.





#### **20.6. Approvals and consents**

An approval or consent given by a Party under this Agreement shall only be valid if in writing and signed by both parties and shall not relieve the other Party from responsibility for complying with the requirements of this Agreement nor shall it be construed as a waiver of any rights under this Agreement except as and to the extent otherwise expressly provided in such approval or consent, or elsewhere in this Agreement.

#### **20.7. Good Faith**

Each party represents and warrants to the other that such party has acted in good faith, and agrees to continue to so act, in the negotiation, execution, delivery, performance, and any termination of this Agreement.

#### **20.8. Ownership of Photographs**

Where applicable and requested by the Customer, the Company may use some of their own photographs for the Web Site. The Company maintains ownership of the photographs, and only grant the Customer a non-exclusive right to use those photographs, and only on the Customer's web site.

#### **20.9. No Right to Assign**

The Company shall not be entitled to assign, cede or transfer any rights or obligation in terms of this Agreement in whole or in part to any other party or person without the prior written consent of the Customer.

#### **20.10. Use of Web Site for Promotional Purposes**

The Customer grants Company the right to use the Web Site for promotional purposes and/or to cross-link it with other Web Sites developed by the Company.

#### **20.11. Identification of Company**

The Customer in its sole discretion may allow a link to the Company's website on its newly developed Web Site as recognition for the services executed by Company.

#### **20.12. No responsibility for loss**

The Company is not responsible for any downtime, lost files, improper links or any other loss that may occur in the operation of the Web Site, except where the Customer has brought it to the Company's attention or where such down time, lost files, improper links or any other loss may have been foreseen or were it is the result of the Company's negligence.

#### **20.13. Transfer of Rights**

The Company may cede its rights under this Proposal including, without limitation, the right to receive payments, without the Customer's consent. The Company will not assign its obligations under this Proposal without the Customer's prior written consent, which consent may not be unreasonably withheld. The Customer will not cede, assign or transfer its rights or obligations under this Proposal without prior written consent of the Company, which consent may not be unreasonably withheld.

#### **20.14. Domain Name**

Any domain name registered on the Customer's behalf will be made in Customer's name and the billing and administrative contacts. The technical contact is generally required to be the hosting ISP. The Company will not register domain names in the Company's name.

#### **20.15. COSTS**

All legal costs of and in connection with the drafting and preparation of this agreement will be borne and paid by the parties in equal shares.

**20.16.** Each paragraph and provision of this Agreement (including Proposal) is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Proposal will remain in full force and effect.

**20.17.** The terms and conditions appearing in the Annexure(s) hereto, are hereby incorporated into the Proposal. In the event of any conflict between the terms and conditions of this Proposal and those appearing in any Annexure(s), the terms and conditions of this Proposal shall prevail.

