

## **General terms and conditions BlueWeb Technologies**

### **Article 1: General**

BlueWeb Technologies is only committed to the customer's order after explicit and written acceptance by BlueWeb Technologies. These general conditions (the "General Conditions") are applied by BlueWeb Technologies for delivery of services, as well as for selling products. The General Conditions are accepted by the customer by filling out the order form or by giving an order. The General Conditions and any specific agreement constitute the full and only agreement between both parties and replace any previously (oral or written) made agreement, proposal, promise or announcement concerning the subject of the specific agreement. Deviating customer conditions are not applicable and are not adversative to BlueWeb Technologies.

### **Article 2: Term and termination**

Except if something else has been agreed in the order form, the specific agreements are valid for a period of one (1) year. Thereafter, they shall be automatically renewed for a subsequent period of one (1) year, except to the extent either party issues a written notice of its intention not to renew it at least three (3) months prior to the expiration of the term then in effect.

### **Article 3: Prices**

Prices mentioned in BlueWeb Technologies proposals are always without liability, unless explicitly mentioned that they are definite. The definite proposal prices are only valid for 14 days. All prices are inclusive VAT unless explicitly mentioned otherwise. All fees are non refundable. BlueWeb Technologies reserves the right to change fees, surcharges, renewal fees or to institute new fees at any time, for any reason, at its sole discretion. Additional work which is not mentioned in the order form and arises after approval of an order will be charged on a hourly rate, after approval of the client.

### **Article 4: Terms of delivery, payment and protest**

The BlueWeb Technologies delivery terms are indicative and not binding, unless explicitly agreed upon. The terms are always expressed in working-days. A customer cannot cancel his order or receive any recommendation for damage because of a delay in delivery. The customer should announce any delivery complaint - no matter of which nature - by registered letter to BlueWeb Technologies within 8 working-days after delivery of the products or within 8 days after the starting date of the delivery of services. Complaints about delivery of products or services cannot be used to suspend or to delay payment. A customer can only object to an invoice and its content (amounts, products, services) in writing within 7 working-days starting from the invoicing date. Invoices are payable within 8 days starting from the invoicing date, unless explicitly agreed upon other payment terms. If an invoice is not paid in time, by right and without any formal notice, a contractual interest of 1% per month is due. Every month started counts as a full month. For any late payment, BlueWeb Technologies is allowed to charge KES 1,000.- administration fees. In cases of non-payment or payment obtained via legal proceedings, the customer will be charged for all costs (lawyer costs inclusive, which are estimated at KES 100,000.- per case).

### **Article 5: Software delivery**

When placing an order, the customer acknowledges to be sufficiently informed by BlueWeb Technologies about the possibilities of the delivered software. The customer will fulfill the directions of use of standard software, which is not developed by BlueWeb Technologies, but is given to the customer in license (within the framework of the agreement). The customer acknowledges only to use the software per his own internal company processes. Use by a third party for the customer's company processes is prohibited. Any eventual infraction to these conditions can never lead to BlueWeb Technologies liability. An agreement with BlueWeb Technologies is never accompanied by any transfer of intellectual property with reference to any software, unless explicitly agreed upon. As the case may be, BlueWeb Technologies or its license provider remains full and exclusive owner of the software.

### **Article 6: Unauthorised use**

The customer should never use the delivered services or facilities - including offered storage place - for encroachment, causing damage or nuisance with respect to BlueWeb Technologies or third parties. Neither should the customer's activities give cause to this. The customer assures that there is no indictable and/or encroaching data, file, programs, meta-tags, hyperlinks, deeplinks or comparable information on Blueweb's hardware. On first request by BlueWeb Technologies, the customer will protect BlueWeb Technologies against the above and will intervene on his own costs (lawyer costs inclusive) in each related procedure against BlueWeb Technologies. The use of Warez, MP3 sites and/or other sites with illegal software is forbidden. Spamming is strongly forbidden on all of BlueWeb Technologies available hardware and systems and will result in immediate closing. The customer assures to comply immediately with any request from BlueWeb Technologies as well as with any reasonable request from a third party to remove and/or adapt the offending content. The customer relinquished his right to claim any indemnity from BlueWeb Technologies. As an example, BlueWeb Technologies does not allow pornographic material on its servers; neither does it allow illegal MP3-sites or sites which offer things that are inconsistent with public order or morals. Activities, that encroach protected work or that are punishable (according to the Law), shall not be exercised on BlueWeb Technologies servers.

### **Article 7: Domain name registration and webhosting activity**

The registration of domain names is done according to the rules of the relevant entity that is responsible for the registration of domain names.

BlueWeb Technologies is in any event never liable for the registration of domain names in bad faith by third parties, the registration of domain names at the request of the client which would be a violation of the rights of third parties, etc. ... The client will always hold BlueWeb Technologies harmless.

Webhosting provides the ability both to create and to publish a World Wide Web site (a "User Web Site"). The customer's right to use the webhosting is personal. If the customer transfers the domain name record to a third party registrar or registrant, or allows a domain name registration to expire, the customer may no longer be able to use BlueWeb Technologies services. In addition, BlueWeb Technologies may, in its sole discretion, choose not to transfer the Service to another customer or to another domain name residing at BlueWeb Technologies.

All hosting plans are subject to storage and transfer limitations. In the event usage of the service exceeds the allotted limits for a plan, the customer is responsible for all charges related to such excess stored data or transfers. In the event that the customer does not pay any applicable overage fees, BlueWeb Technologies reserves the right to suspend or disable the customer's account until such fees are paid.

The storage space allotted to the customers web site from any and all of BlueWeb Technologies services can only be used for traditional or conventional web site content which must be "live" content and available on the customer's published website. As an example and not limited to this example, this storage space must not be used for archiving or storing files of any type and the customer must not have any copyrighted material posted nor can there be any material posted for download through other web sites.

If the customer cancels the contract before the end of the term, the customer will have access to the customer's website for the remainder of the term for which the customer has prepaid. When the customers contract expires or is terminated, or an invoice is unpaid and due for payment, the customers User Web Site will cease resolving on the Internet, the customer will no longer have access to the Service, and all information and Content contained therein will be deleted. BlueWeb Technologies accepts no liability for such deleted information or Content.

The customer understands that the customer is solely and fully responsible for all information, data, text, software, music, sound, photographs, graphics, video, messages, goods, products, services or other materials ("Content"), whether publicly posted or privately transmitted using the Service or a User Web Site. BlueWeb Technologies does not pre-screen Content, but BlueWeb Technologies and its designees shall have the right (but not the obligation) in their sole discretion to refuse or remove any Content that is made available to others using the Service or on a User Web Site. BlueWeb Technologies neither endorses the Content of the customers User Web Site nor assumes responsibility for such Content. The customer agrees that the customer must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content.

BlueWeb Technologies respects the intellectual property rights of others and we ask our customers to do the same.

The customer agrees and acknowledges that BlueWeb Technologies will, in its sole discretion, determine whether or not the customers User Web Site is consistent with these general terms and conditions, or applicable BlueWeb Technologies operating rules and policies. The customer also agrees and acknowledges that BlueWeb Technologies may suspend, remove, delete or modify any User Web Site or any portion thereof that BlueWeb Technologies deems inconsistent with these general terms and conditions or unacceptable for any other reason and may suspend, cancel or modify the customers access to and use of the service for any violation of those terms and conditions, in BlueWeb Technologies sole discretion, and without prior notice to the customer.

#### **Article 8: Liability**

Under no circumstances will BlueWeb Technologies be liable for any indirect damage, such as commercial or financial losses, loss of data, loss of reputation, profit or turnover loss, loss of customers and losses resulting from legal proceedings instituted by third parties against the customer. BlueWeb Technologies cannot be held responsible for eventual Internet connection failures caused by technical or other failures (inside as well as outside the BlueWeb Technologies network). The customer is solely liable for the proper use of the product, service or software, taking into account the BlueWeb Technologies specifications, BlueWeb Technologies documentation and BlueWeb Technologies instructions. With regard to the customer, BlueWeb Technologies will only be liable for proven damages, resulting from commitments which are mentioned in the BlueWeb Technologies agreement (i.e. exclusion of any other implicit or non-written commitment). BlueWeb Technologies liability according to a BlueWeb Technologies agreement shall - per claim or a series of claims and resulting from the same fact/cause - in any case not exceed the total amount of the customer's invoice and the purchase price amounts or revertive service costs (i.e. installation costs excluded) for a period of three (3) month, prior to the incident and related to the specific project, related to the claim.

#### **Article 9: Personal data processing**

In order to be able to execute its agreements, BlueWeb Technologies (as responsible for processing) gathers personal data from its customers. BlueWeb Technologies may use this data for direct marketing purposes. This allows BlueWeb Technologies to inform the customer regularly about its activities. If the customer does not want his data being used for this purpose, he should send an e-mail to: info@blueweb.co.ke. The customer can consult his personal data and he can correct or change it by sending an e-mail (with date and signature on it) to info@blueweb.co.ke. The customer's personal information will under no circumstances be forwarded to third parties. BlueWeb Technologies has the right to change this privacy regulation at any time.

#### **Article 10: Various**

The customer's rights and obligations, resulting from a BlueWeb Technologies agreement, cannot be transferred to third parties (neither partly nor totally) without prior written permission from BlueWeb Technologies. When (the execution of ) a stipulation in a BlueWeb Technologies agreement is not enforceable for any party, at any level, this will not be derogatory to the other stipulations in the agreement.

Any change to the contact details of the client such as addresses, phone numbers or e-mail addresses should be communicated by the client to BlueWeb Technologies in due time.

BlueWeb Technologies may have a need to communicate with the customer via email. It is the customers responsibility to check email sent to the email address that the customer provide to BlueWeb Technologies in the order form. The client agrees and acknowledges that it is his responsibility to update contact information promptly as needed to keep it current, complete and accurate. The client acknowledges and agrees that willfully providing inaccurate or unreliable information or willfully failing to update information promptly will constitute a material breach of these terms and conditions that will be sufficient basis for cancellation of the Service. BlueWeb Technologies will take reasonable precautions to protect the information it obtains from the customer from loss, misuse, unauthorized use, access, or disclosure of that information. BlueWeb Technologies will have no liability to the customer or any third party to the extent such reasonable precautions are taken.

No employee, contractor, agent or representative of BlueWeb Technologies or its subsidiaries is authorized to alter or amend these general terms and conditions except by means of a written document signed by the customer and an authorized officer of BlueWeb Technologies.

**Article 11: Applicable law and exclusive competence**

Kenyan law is applicable to all BlueWeb Technologies agreements. Any issue resulting from a BlueWeb Technologies agreement will exclusively be dealt with in the courts of Nairobi (Kenya).

**Article 12: Intellectual property rights**

All rights of intellectual property concerning products or services as well as designs, software, documentation and all other materials that are being developed and/or used in preparation or execution of the agreement between BlueWeb Technologies and the customer or anything that comes from the agreement are solely property of BlueWeb Technologies or its suppliers. Any product or service supplied by BlueWeb Technologies or its suppliers will ever lead to transference of intellectual property right to the customer.

The customer is only allowed to use the products and services as stated in the agreement between BlueWeb Technologies and the customer. The customer is obliged to abide the conditions stated in the agreement, the general conditions and possible other conditions agreed upon during the initial agreement.

The customer will never publish, copy or transfer any BlueWeb Technologies products and/or services supplied by BlueWeb Technologies and/or its suppliers without explicit written authorization by BlueWeb Technologies. The customer will never remove or alter any indications of author rights, brands, brand names or other rights of intellectual property of BlueWeb Technologies and/or its suppliers. BlueWeb Technologies vouches to grant the customer the user rights and frees the customer of possible claims by third party companies. This is not applicable when products or services are not solely a BlueWeb Technologies product unless the customer can prove it's only applicable to a certain part of the product that is solely is a BlueWeb Technologies product.