



Terms and Conditions

This Website Management Agreement ("Agreement") is hereby entered into between you, your employees and agents (collectively "Customer") and applies to the purchase of all Monthly Website Management Services (hereinafter collectively referred to as "Website Management Services") ordered by Customer.

1. **Term and Termination** – This Agreement shall be effective as of the time frame Customer signs up for Website Management Services. This Agreement may be terminated by either party upon written notice to the other, if the other party breaches any material obligation provided hereunder and the breaching party fails to cure such breach within thirty (30) days of receipt of the notice. This Agreement may be terminated by Genacom (i) immediately if Customer fails to pay any fees hereunder; or (ii) if Customer fails to cooperate with Genacom or hinders Genacom's ability to perform the Website Management Services hereunder.
2. **Website Management Services** – Genacom agrees to provide Customer with Website Management Services as described in this Agreement. Website Management Services include:
 - Updates to text, images, and other minor changes to Customer's website pages.
 - Upgrades to Customer's website functions, including website forms and database operations.
 - Removal of malware, spam and malicious code from Customer's website.
 - Recovery of files or email from backups, if available.
 - 24/7 Monitoring.
 - Security Monitoring Support.
 - Any other additional services as specified in proposal prior to initial engagement.
3. **Fees; Limitations on Refunds and Cancellation Fees** – Customer agrees to pay Genacom any and all fee(s) as billed in accordance with this Agreement. The fee(s) must be received prior to the start of any Website Management Services for the month services are to be rendered. Changes to fee structures and services can be negotiated prior to any month. This can be communicated via email or phone conversation. An invoice will be mailed on the 1st of every month (if the 1st does not fall on a weekend, in that case the next business day) to the Customer's mailing address on file of all charges for the month services are to be rendered. THE CUSTOMER FURTHER AGREES THAT, IN THE EVENT OF ANY



TERMINATION OF THIS AGREEMENT BY CUSTOMER, NO REFUNDS SHALL BE GIVEN UNDER ANY CIRCUMSTANCES WHATSOEVER. THE CUSTOMER FURTHER AGREES TO PAY UPON CANCELLATION THE AMOUNT OF ANY CANCELLATION FEES OR OTHER AMOUNTS DUE TO GENACOM AS PROVIDED IN THE AGREEMENT. GENACOM IS HEREBY AUTHORIZED TO CHARGE CUSTOMER'S CREDIT CARD ACCOUNT OR OTHER PAYMENT MECHANISM FOR ANY AMOUNTS OWED FROM TIME TO TIME BY CUSTOMER TO GENACOM.

4. **Setup Fees** – Genacom may charge a setup fee at the beginning of any engagement. The proposal may or may not explain what the setup fee is for, however Genacom will make the Customer aware of what the setup fee is for either by email or phone prior to the beginning of any engagement. If the Customer does not agree with the setup fee, Genacom will not charge for any Website Management Services until Genacom and Customer negotiate a new setup charge.
5. **Customer Responsibilities** – For the purposes of providing these services, Customer agrees:
 - To provide Genacom with access to its web sites for creating new pages, and making changes for the purpose of providing Website Management Services.
 - To properly convey to Genacom the information that needs to be changed or added.
6. **Customer Acknowledgements** – Customer understands, acknowledges and agrees that:
 - Genacom charges a flat fee for its services on the 1st of each month for the month services are to be rendered. All agreed upon services are to be completed by the end of the month. Genacom or the Customer can negotiate a new service offering and fee structure for any upcoming months for the months' services are to be rendered. If no communication occurs, the previous month services and fee schedule will continue or if Customer provides written notice of Cancellation.
 - The Customer can request at any time a list of work performed for the month or any month the Customer paid for services.
 - Genacom has no control over the policies of search engines or directories with respect to the type of sites and/or content that they accept now or in the future. Customer's web site(s) may be excluded from any search engine or directory at any time at the sole discretion of the search engine or directory entity.



- Customer must provide Genacom within 10 days of each month tasks they would like to complete for that given month so that Genacom will have an acceptable amount of time to perform and complete all tasks. Website Management Services is strictly month to month if Customer submits tasks past the 10-day window Genacom will attempt to complete the tasks, but under no obligation too. They will be scheduled for the upcoming month as long as Customer pays via by credit card on the 1st.
- Genacom is not responsible for rewriting sentences, restructuring paragraphs, or checking for typing errors, misspellings, etc.
- Genacom is not responsible for changes made to Customer's web site(s) by other parties.
- Genacom is not responsible for third-party plugins that may become unusable as a result of Website Management Services performed.
- Genacom will not repair Customer's website(s) that became compromised, hacked, or otherwise defaced or infected prior to ordering Website Management Services.
- Recovery or repair of Customer's website is not guaranteed.
- Availability of backups is not guaranteed.
- **Indemnification** – Customer shall indemnify and hold harmless Genacom (and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees) from any and all claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees and all related costs and expenses) incurred by Genacom as a result of any claim, judgment, or adjudication against Genacom related to or arising from (a) any photographs, illustrations, graphics, audio clips, video clips, text, data or any other information, content, display, or material (whether written, graphic, sound, or otherwise) provided by Customer to Genacom (the "Customer Content"), or (b) a claim that Genacom's use of the Customer Content infringes the intellectual property rights of a third party. To qualify for such defense and payment, Genacom must: (i) give Customer prompt written notice of a claim; and (ii) allow Customer to control, and fully cooperate with Customer in, the defense and all related negotiations.
- **Disclaimer of All Other Warranties** – GENACOM DOES NOT WARRANT THAT THE WEBSITE MANAGEMENT SERVICES WILL MEET THE CUSTOMER'S EXPECTATIONS OR REQUIREMENTS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE IS WITH CUSTOMER. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, GENACOM PROVIDES ITS SERVICES "AS IS" AND WITHOUT WARRANTY OF ANY



KIND. THE PARTIES AGREE THAT (A) THE LIMITED WARRANTIES SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED BY EACH PARTY, AND (B) EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THIS AGREEMENT, PERFORMANCE OR INABILITY TO PERFORM UNDER THIS AGREEMENT, THE CONTENT, AND EACH PARTY'S COMPUTING AND DISTRIBUTION SYSTEM. IF ANY PROVISION OF THIS AGREEMENT SHALL BE UNLAWFUL, VOID, OR FOR ANY REASON UNENFORCEABLE, THEN THAT PROVISION SHALL BE DEEMED SEVERABLE FROM THIS AGREEMENT AND SHALL NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF ANY REMAINING PROVISIONS.

- **Limited Liability** – IN NO EVENT SHALL GENACOM BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, LOST PROFITS, WHETHER OR NOT FORESEEABLE OR ALLEGED TO BE BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE OR STRICT LIABILITY, ARISING UNDER THIS AGREEMENT, LOSS OF DATA, OR ANY PERFORMANCE UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. THERE SHALL BE NO REFUNDS. GENACOM MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO ANY THIRD PARTY PRODUCTS, THIRD PARTY CONTENT OR ANY SOFTWARE, EQUIPMENT, OR HARDWARE OBTAINED FROM THIRD PARTIES.

- **Customer Representations** – Customer makes the following representations and warranties for the benefit of Genacom:
 - Customer represents to Genacom and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Genacom are owned by Customer, or that Customer has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Genacom and its subcontractors from any claim or suit arising from the use of such elements furnished by Customer.



- Customer guarantees to Genacom and unconditionally guarantees that Customer's website has not been compromised, hacked, or otherwise defaced or infected prior to ordering Website Management Services.
- Customer guarantees any elements of text, graphics, photos, designs, trademarks, or other artwork provided to Genacom for inclusion on the website above are owned by Customer, or that Customer has received permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and defend Genacom and its subcontractors from any liability or suit arising from the use of such elements.
- From time to time governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. Customer agrees that the client is solely responsible for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend Genacom and its subcontractors from any claim, suit, penalty, tax, or tariff arising from Customer's exercise of Internet electronic commerce.
- **Confidentiality** – The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" shall include, but is not limited to, written or oral contracts, trade secrets, know-how, business methods, business policies, memoranda, reports, records, computer retained information, notes, or financial information. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; or (iv) is subject to disclosure under court order or other lawful process. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement. Each party's proprietary or confidential information shall remain the sole and exclusive property of that party. The parties agree that in the event of use or disclosure by the other party other than as specifically provided for in this Agreement, the non-disclosing party may be entitled to equitable relief. Notwithstanding termination or expiration of this Agreement, Genacom and Customer acknowledge and agree that their obligations of confidentiality with respect to Proprietary or Confidential Information shall continue in effect for a total period of three (3) years from the effective date.



- **Force Majeure** – Neither party will be liable for, or will be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimize the impact of the event.
- **Relationship of Parties** – Genacom, in rendering performance under this Agreement, shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. Customer does not undertake by this Agreement, or otherwise, to perform any obligation of Genacom, whether by regulation or contract. In no way is Genacom to be construed as the agent or to be acting as the agent of Customer in any respect, any other provisions of this Agreement notwithstanding.
- **Notice and Payment** – Any notice required to be given under this Agreement shall be in writing and delivered to the other designated party, mailed via us postal service. Either party may change its address to which notice or payment is to be sent by written notice to the other under any provision of this paragraph.
- **Jurisdiction/Disputes** – This Agreement shall be governed in accordance with the laws of the State of California. All disputes under this Agreement shall be resolved by litigation in the courts of the State of California including the federal courts therein and the Parties all consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.
- **Agreement Binding on Successors** – The provisions of the Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their heirs, administrators, successors and assigns.
- **Assignability** – Customer may not assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of Genacom. Genacom reserves the right to assign subcontractors as needed to this project to ensure on-time completion.
- **Waiver** – No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Agreement.



- **Severability** – If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from the Agreement.
- **No Inference Against Author** – No provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.
- **Disputes** – Customer and Genacom agree to make a good-faith effort to resolve any disagreement arising out of, or in connection with, this Agreement through negotiation. Should the parties fail to resolve any such disagreement within ten (10) days, any controversy or claim arising out of or relating to this Agreement, including, without limitation, the interpretation or breach thereof, shall be submitted by either party to arbitration in Napa County, California and in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted by one arbitrator, who shall be (a) selected in the sole discretion of the American Arbitration Association administrator and (b) a licensed attorney with at least ten (10) years experience in the practice of law and at least five (5) years experience in the negotiation of technology contracts or litigation of technology disputes. The arbitrator shall have the power to enter any award that could be entered by a judge of the state courts of California sitting without a jury, and only such power, except that the arbitrator shall not have the power to award punitive damages, treble damages, or any other damages which are not compensatory, even if permitted under the laws of the State of California or any other applicable law. The arbitrator must issue his or her resolution of any dispute within thirty (30) days of the date the dispute is submitted for arbitration. The written decision of the arbitrator shall be final and binding and enforceable in any court having jurisdiction over the parties and the subject matter of the arbitration. Notwithstanding the foregoing, this Section shall not preclude either party from seeking temporary, provisional, or injunctive relief from any court.
- **Read and Understood** – Each Party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms and conditions.