

General Terms and Conditions (GTC)

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Development Service

1. ACCEPTANCE OF THIS GTC

1. All business dealings with BIGELOW Website Innovation GmbH (hereafter abbreviated as **BWI**) are governed by the stipulations described in the following sections.
2. The placing of an order is a confirmation of acceptance by the contracting authority of these business terms and conditions.

2. WORKING PRINCIPLES

1. In working for our clients all activities related to development, hosting support and advertising respect the principals of honesty, integrity and the rule of law.

2. We reserve the right to reject development contracts that do not comply with the above principals.

3. OFFERS, DEFINITIONS, EXPECTATIONS

1. The first consultation is free of charge and non-binding for both parties. All subsequent activities are billable.
2. BWI provides a **fixed-price** offer for development projects.
3. BWI remains bound to an offer for a period of 30 days.
4. The contract between BWI and the client becomes legally binding through the signed and dated acceptance of the offer.
5. The development project is defined by a set of clearly stated requirements that are agreed to by both contract parties.
6. The client is obligated to accept delivery if the product or service satisfies all stated requirements.
7. Offers submitted by BWI that are based on approximate or not yet available information are to be regarded as a fundamental willingness to do business; they do not represent legally binding offers. The prices given in such offers only serve as an approximation to give the client a rough idea of the overall cost. The non-binding parts of an offer shall be clearly identified.

8. Extra work caused by a client's demand to change formally accepted requirements in an ongoing project will result in additional costs.
9. Change requests that would seriously impact the scope, design and schedule of an ongoing project shall be deferred and invoiced on the next version of the product.
10. The fixed-price offer from BWI does not include the cost to deliver licensed content in the form of graphics, animation, text, photos and audio/video files.
11. Websites developed by BWI are carefully designed and configured to assist search engines in evaluating the website and its contents. However, BWI does not guarantee the ranking results.

4. PAYMENTS, CONDITIONS

1. All invoices are to be paid within 30-days of the receipt date.
2. All prices reflect the net cost of the product or service in Swiss Francs; they do not include the Swiss value-added tax (VAT). The amount of VAT is calculated separately.
3. BWI is entitled to 25% of the total amount specified in the offer at the signing of the contract.
4. A new website project is delivered in six (6) stages.
 - a. Documents: Project-plan, Requirements, Specifications
 - b. Wireframe models: B&W (structure) and Color (design)
 - c. Website prototype: Implementation of the wireframe models

- d. Website demonstrator: Integrate, style and format the content
- e. Training: Website administration and content editing
- f. Website deployment: The official Go-Live event.

5. PRIVACY, CONFIDENTIALITY

1. BWI its business partners and all other project participants are legally obligated to safeguard the confidentiality and secrecy of all information made available for the purpose of the project. This obligation remains in effect even after the contract has ended.

6. CLIENT RESPONSIBILITIES

1. The client is responsible for inspecting the quality and correctness of the delivered product/service and confirming acceptance in writing within 7-days from the receipt date. If improvements are desired, the changes must be communicated to BWI in writing within this time period. If the 7-day period expires without feedback from the client, BWI can automatically record the delivery as accepted.
2. The client is responsible for reporting demonstrable defects within 60-days (the warranty period) from the date of final delivery acceptance.
3. The client warrants that its' products, services and content does not violate the laws of Switzerland.
4. The client agrees to respect and comply with all business competition rules, telecommunication laws, national and international copyright regulations, data privacy conventions and third party rights.

5. Reproduction of all BWI provided intellectual property items such as design artifacts, software modules and the like is conditional upon the right of the client to own and use such copyright materials.
6. The responsibility for the legality and accuracy of the published content lies solely with the client.

7. COPYRIGHTS, OWNERSHIP

1. BWI shall transfer the ownership and copyright privileges for the work products created by BWI to the client upon receipt of full payment for all related invoices.
2. Design works (conceptual drawings, graphics, etc.) that were created without charge (e.g. for the offer and presentation) may not be used without written consent from BWI.

8. CONTRACT ISSUES

1. In the case of technical, administrative or financial problems attributed to the client for which BWI bears no blame or responsibility and which makes further progress impossible, the following applies:
 - a. BWI is authorized to cancel the entire contract without notice
 - b. Both parties of the contract agree that there is no entitlement to liability for indirect and consequential damages and for lost profits
 - c. The client agrees to immediately reimburse BWI for all outstanding costs.

- d. BWI is entitled to keep the upfront payment of 25% of the fixed-price offer as a cancellation fee.
2. If the client demands fundamental changes to the legal agreement, then by definition, this represents a breach of contract. BWI is therefore authorized as follows:
 - a. Work on the project is stopped.
 - b. The client agrees to immediately pay BWI for all outstanding expenses that were paid in advance to third-party vendors and service providers and for hours worked.
 - c. If both parties are able to agree on the new requirements, terms, conditions and price, then the project will be restarted, otherwise it is terminated.
 - d. Both parties agree that there is no entitlement to liability for indirect and consequential damages and for lost profits.
 - e. BWI is entitled to keep the upfront payment of 25% of the fixed-price offer as a cancellation fee.

9. PAYMENT ISSUES

1. The client accepts the following late payment fees:
 - a. 1st late payment notification CHF 20.-
 - b. 2nd late payment notification CHF 40.-
2. If the charges invoiced by BWI are not paid after the 2nd notification, then BWI is authorized to stop work and take the website offline.
3. BWI maintains all rights to creative works and intellectual property associated with the project until full payment is received.

10.DELIVERY ISSUES

1. A BWI delivery deadline that is missed due to a cause for which BWI is not at fault does not entitle the client to cancel the contract or make BWI responsible for damages. Examples of delays for which BWI is not responsible are the following:
 - a. The client fails to provide essential information such as website content and/or feedback at the agreed upon day and time.
 - b. The client suddenly and unilaterally changes a previous agreement such as a design requirement or a performance specification.
 - c. The client is unable to make project resources (personnel, computers, etc.) available on time.

2. If it can be shown that BWI is responsible for the cause of a missed deadline
 - a. Both parties shall agree to a new and reasonable extension to the delivery date.
 - b. If BWI does not meet the new deadline within the grace period, then the client can cancel the contract and will not be invoiced by BWI for outstanding hours, third-party charges, expenses or any other costs.
 - c. BWI shall return all client data and creative works that were produced by BWI and paid for by the client in previous deliverables along with all ownership rights.
 - d. BWI shall return the upfront payment of 25% of the fixed-price offer to the client.
 - e. Both parties of the contract agree that there is no entitlement to liability for indirect and consequential damages and lost profits.

11. LIABILITY

1. BWI is not liable for the cost of rework after the client has accepted a given product or service.
2. Claims for damages are excluded to the extent permitted by law. BWI, its business partners and third-party consultants are not liable for consequential damages such as lost profits, damage to reputation or loss of data.
3. BWI is not liability for damages caused by events beyond our control such as civil unrest, disruption to technical infrastructure or incorrect operating actions by the client.

12. EXTERNAL SERVICES & VENDORS

1. BWI may at its sole discretion perform all services itself or subcontract parts of a project to specialized third parties.
2. The client may suggest an external or internal website designer to help with the project, however as the primary contractor, BWI has the final say on decisions such as these.

13. EXPENSES

1. Business class hotel: Invoiced at cost.
2. Training: User manuals, conference room rental, refreshments, etc.

3. Meals: Lunch CHF 25, Dinner CHF 35 - if work away from the office extends beyond 8:00 PM.
4. Small expenses: Copies, Telephone, Postage, Tram and Bus.
5. Foreign currency: Conversion at daily rate in CHF.
6. Weekend work: Published hourly rates multiplied by 1.5.
7. Travel expenses: Outside the Thun metropolitan area expenses are invoiced for train, car, taxi, parking and rentals.
 - a. Car: CHF 0.75 / km
 - b. Train: 1st class ticket
 - c. Travel time (in 15-minute increments): CHF 80 per hour

14. FINAL PROVISIONS

1. BWI may change the general terms and conditions document at any time.
2. Each change to the GTC results in a new version number.
3. In the event of a disagreement, both contract parties pledge to pursue an amicable solution to the problem in good faith. If a settlement to the dispute cannot be resolved, then at the request and expense of one of the two parties an independent expert can be called in to serve as an arbitrator and mediator.
4. Jurisdiction for the client and BWI is the domicile of BWI. In all legal matters, Swiss law applies.