



## WEBSITE DESIGN CONTRACT

(Effective As of 6/25/2008)

This is a Computer Consultant Services Agreement ("Agreement") between You, person agreeing to this contract by hand written signature, referred to in this Agreement as "Client", and PersonalTrainerWebsiteDesign.com, part of Lynn VanDyke, Inc, referred to in this Agreement as "Consultant". Client and Consultant are collectively referred to in this Agreement as the "Parties".

**WHEREAS**, Consultant has the experience and technical expertise in the development of Websites.

**WHEREAS**, Client has approached the Consultant and expressed desire for the Consultant to develop a Website for Client.

**WHEREAS**, Consultant has agreed to develop and design the Client's Website on the terms and conditions set forth herein.

**NOW THEREFORE**, Parties, in consideration of the mutual convenience set forth in this Agreement, agree as follows:

**1. Services.** Client authorizes the following services ("Service") to be performed by Consultant:

**a. Design.** A 3-column design of a Website based on information and data supplied by Client to design a Website suitable to be placed by Consultant on the Internet. Client provides data for header image, background color, column colors and navigation colors.

**b. Hosting.** Consultant will provide assistance in selecting and registering with a suitable Website hosting provider, but makes no representation or warranty concerning the Provider. Consultant makes no representations or warranties concerning the potential "downtime" or interruptions of service of the computers maintained by the Provider.

**c. Domain Name.** Client will have ownership of the domain name. The Consultant will register the domain name for the Client in the Client's name with an industry-appropriate registrar.

**d. Specifications.** Consultant agrees to develop and design the Website according to the terms for payment set forth herein. Consultant further agrees to develop the Website pursuant to the specifications set forth in Exhibit A attached hereto and incorporated herein ("Specifications").

**2. Consultation Services.** The Parties agree that any written or oral consultation provided by Consultant is advisory, involving Consultant's judgment based on education and experience, and that there is no guarantee of any particular result from the consultation.

**3. Independent Contractor Status.** Client and Consultant agree that Consultant shall act as an independent contractor. The Consultant is not to be deemed an employee of Client. Client retains the right to exercise final judgment with respect to the ultimate development of the Service and has responsibility for such development, although the details of the Service shall be within the discretion of the Consultant. Consultant is only obligated to perform duties according to Exhibit A attached hereto and incorporated herein ("Specifications").

**4. Materials.** Client shall provide content that Consultant asks for the Website, such as in the form of information, images and text within fifteen (15) days of Consultant's request. In the event Client does not provide content as identified above, the Consultant will nevertheless continue with its Website development to its completion, or as far as Consultant can go with missing information. Client shall not withhold Website approval because of the lack of its own provision of content. **If the Client does not provide needed information within fifteen (15) days of Consultant's request, Consultant has the right to terminate contract while Client is still obligated to pay for services performed.**

**5.a. Compensation.** Consultant shall be paid according to the terms specified in Exhibit B attached hereto and incorporated herein ("Schedule") and according to the payment plan Client has selected during the Sign Up process. Monthly billing shall be automatic credit card billing as specified in Exhibit B hereto. Client agrees to allow Consultant's merchant account (CyberSource) to charge their credit card for monthly billing.

In the event of a payment failure of Client's credit card Client has five (5) business days to provide a new credit card. If no payment is received within thirty (30) days of its due date it shall be cause for Consultant to terminate this Agreement and for Consultant to take down any content or information posted to Client's website. **Please Note: if no payment is collected from you or your credit card thirty (30) days after the due date your website will be taken down.** You forfeit all rights and ownership and Consultant does have the right to pass delinquent contracts to a collections agency. You will still be liable for all charges associated with your website plan.

**5.b. Cap on Design Iterations without Additional Charge.** The Consultant will provide no more than one (1) design iteration of the Website and one (1) iteration of a header design provided by the Client within the fee terms specified in Exhibit A hereto. The Parties agree that any additional iterations requested by the Client will be performed at an additional charge to the Client. That additional charge will be determined by current hourly rates and/or ongoing plan fees.

**5.c. Recurring Fees.** Client agrees to pay \$50 per month for as long as they wish the website to be live. This fee covers the website hosting fee and domain name fee each month, in addition to other items. Client agrees that changes in third-party service hosting provider fees will be passed on to the Client. Client has the right to upgrade to higher recurring plans and even custom plans at anytime.

In the event of a payment failure of Client's credit card Client has five (5) business days to provide a new credit card. If no payment is received within thirty (30) days of its due date it shall be cause for Consultant to terminate this Agreement and for Consultant to take down any content or information posted to Client's website. **Please Note: if no payment is collected from you or your credit card thirty (30) days after the due date your website will be taken down.**

**Please Note:** \$50 per month is mandatory and failure to pay this fee each month will result in your website not being live. All websites must pay for hosting regardless of their webmaster or size or age. Without hosting your website is not live. **NOTE:** You will own your website files once your initial website balance is paid in

full, but if you stop paying the recurring hosting fees no one will be able to see your site as you've lost your hosting account.

**Options:** We do provide higher monthly maintenance plans for those wishing to add more to their website than standard hosting and retainer tasks. These higher plans are optional and you may change plans each month. Plan items (such as pages allowed per month) are NOT carried over from one month to the next. To learn more, please contact us at 1-484-340-3023 or visit our website.

**6. Expenses.** Client shall additionally reimburse Consultant for expenses that are reasonably incurred by Consultant in the performance of this Agreement upon Consultant's presentment of invoices for same. All additional costs will be agreed upon by Client and Consultant before any additional costs are incurred.

**7.a. Confidentiality – Client's Information.** Consultant agrees that all confidential information ("Confidential Information") communicated to Consultant with respect to the Service, including any Confidential Information gained by Consultant or its representatives by reason of association or employment with Client or its associates is confidential. Client shall make reasonable efforts to mark as confidential any materials to be protected pursuant to this paragraph. Consultant promises and agrees that Consultant shall not disclose any Confidential Information to any other person unless specifically authorized in writing by Client to do so, except to the extent disclosure is required by subpoena or an Order from a court of competent jurisdiction. Consultant shall use its best efforts to prevent inadvertent disclosure of any Confidential Information to any third party. Client agrees that Consultant may utilize the Website in its promotional materials, and may but is not required to include a link to Client's page in Consultant's Website or in any other page designed by Consultant.

**7.b. Confidentiality – Consultant's Trade Secrets.** Client hereby agrees that all documents, specifications and all other information, of whatever kind or nature, that are related to the development of the Website herein (the "Confidential Information") are trade secrets of and having significant value to Consultant and which therefore are the intellectual property of Consultant. Client shall not, at any time during or after the term of this agreement, without Consultant's prior written consent, disclose or otherwise make available to anyone, either directly or indirectly, all or any part of the Confidential Information. Not included in the definition of "Confidential Information" is any information that can be observed by the public on the Website when each page of the subject Website is accessed.

**8. Consultant's Logo/Copyright Information.** The Client hereby agrees that Consultant may place a link consisting of Consultant's logo or website name, Consultant's affiliate link to preferred hosting company and copyright information, if any, on each and every page of the Client's Website.

**9. Ownership of Work Product.** Consultant shall hold all right, title and interest in and to the Website until Website balance is paid in full, specifically including by way of illustration but without limitation the following:

**9.a.** All text, graphics, animation, audio components, photographs and digital components of the Website (the "Content") not provided by Client or mutually contracted and final payment received from Client,

**9.b.** All interfaces, navigational devices, menus, menu structure or arrangements, icons, help and other operational instructions and all of the components of any source or object computer code that comprises the Website,

**9.c.** All expressions of ideas, whether literal or non-literal, that operate, cause, create, direct, manipulate, access or otherwise affect the Content, and

**9.d.** All other intellectual property of the Consultant, including but not limited to all copyrights, patents or trade secrets, or any component thereof.

Client shall refrain from any infringement of any kind or any other action that would in any way compromise Consultant's ownership in the Website, as described hereinabove.

Notwithstanding, Consultant, upon complete payment by the Client, grants permission to the Client to use the Website. However, the Consultant does not grant permission to the Client to duplicate anything provided by the Consultant for the Client in the development or design of the subject Website. All content, logos and other contractually included information will be transferred to Client after complete website payment is made.

Notwithstanding the above, the Client shall retain all right, title and interest in and to all of its intellectual property rights in any text, images or other components it provided to the Consultant for use in the development of the subject Website.

**10.a. Client Indemnification.** Client shall indemnify and otherwise hold the Consultant harmless from any and all claims brought by any third party against the Consultant relating to any part of the subject Website, and shall indemnify Consultant from any losses, including but not limited to attorney's fees and all other costs related to such third-party claim whether or not in litigation that arises out of injury to said third party caused by any product, service, and/or materials supplied to Consultant by Client for inclusion in the development of the subject Website. Client hereby warrants that everything it supplies to Consultant for inclusion in the subject Website is legally owned or licensed to the Client and is not the subject of any infringement on the intellectual property rights of any third party.

**10.b. Consultant's Warranty and Indemnification.** Consultant warrants that any materials provided by Consultant for use by Client pursuant to this Agreement shall not contain any proprietary material owned by any other party for which that other party has not given license to Consultant for use of same that is protected under Copyright Act or any other similar law. Consultant shall be solely responsible for ensuring that any materials provided by Consultant pursuant to this Agreement satisfy this requirement and Consultant agrees to hold Client harmless from all liability or loss to which Client is exposed as a result of Consultant's failure to perform this duty.

**11. Termination of Contract.** This Contract shall not be terminated by either party prior to the completion of the Service by the Consultant for the project identified in this Agreement, unless in violation of terms set forth in the Agreement. **Consultant has the right to cancel the contract if Client is in violation of getting said content to Consultant (according to Term 4) or payment violation (according to Term 5.a and 5.c).**

**12. Assignment of Contract.** Neither of the Parties may assign this Agreement or any rights under the Agreement without the prior written consent of the other party.

**13. Limited Warranty and Limitation on Damages.** Consultant's sole warranty to the Client is that the subject Website will conform to the Specifications enumerated in Exhibit A attached hereto and Client hereby acknowledges same. Consultant shall correct any deviations from the Specifications on the Website without unreasonable delay at its sole expense without cost to the Client in order to conform the Website to the

Specifications. Client further acknowledges that the Consultant does not warrant that the Website will work on all platforms. The Client further acknowledges that Consultant does not warrant the results obtained by the Client as a result of the Website.

**14. Waiver.** The waiver by either party of any breach or failure to enforce any of the terms and conditions of this Agreement at any time shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance with every term and condition of this Agreement.

**15. Governing Law.** The Parties agree that this Agreement shall be governed by and construed pursuant to the laws of New York.

**16. Entire Agreement.** This Agreement is the completed and exclusive statement of the mutual understanding of the Parties. This Agreement supersedes and cancels all previous written and oral agreements and communications between the Parties relating to the Consultant's Service that is the subject matter of this Agreement.

**17. Attorney's Fees.** If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees in addition to any other cost and/or relief to which that party may be entitled.

**18. Severability.** If any court of competent jurisdiction determines that any part of this Agreement is invalid or unenforceable, that determination shall not impair or nullify the remainder of this Agreement.

**19. Amendment.** The Parties agree that they may amend this Agreement only by a written agreement duly executed by persons authorized to execute agreements on behalf of the Parties.

**20. Force Majeure.** If performance by Consultant of any of its obligation under the terms of this Agreement shall be interrupted or delayed by an act of God, by acts of war, riot, or civil commotion, by failure of computer equipment, including loss of data, or by an act of State, by strikes, fire, flood, or by the occurrence of any other event beyond the control of the Parties hereto, that party shall be excused from such performance for the same amount of time as such occurrence shall have lasted OR for such period of time as is reasonably necessary after such occurrence abates for the effect thereof to have dissipated.

## **EXHIBIT A**

### **BASIC WEBSITE SPECIFICATIONS**

**A.1. Purpose of Website.** The purpose of the website is to create an online presence for Client.

**A.2. Services.** Consultant will provide the following services to design the Website:

- Provide a page layout
- Design a website header
- Design a navigation bar
- Develop a contact form
- Set up email addresses and Webmail
- Add 5 pages of content (provided by Client) to the website. 5 pages are outlined as:

- Home page
- About Us page
- Services page
- Contact page
- Page of Client's Choice

**A.3. Exclusions.** This Agreement does not include:

- Computer instructions
- Website design instructions
- HTML instructions
- Website support beyond that specified herein
- General Internet business consulting

**A.4. Conditions.** The following conditions apply to the development of the Website.

- Beyond activities posted in section A.2 all additional work will be billed as additional services as outlined in Term 5B.

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## **DELUXE WEBSITE SPECIFICATIONS**

**A.1. Purpose of Website.** The purpose of the website is to draw targeted traffic from organic search results through content provided by Client.

**A.2. Services.** Consultant will provide the following services to design the Website:

- Provide a page layout
- Design a website header
- Design a navigation bar
- Develop a contact form
- Set up email addresses and Webmail
- Add 4 pages of content (provided by Client) to the website. 4 pages are outlined as:
  - Home page
  - About Us page
  - Services page
  - Contact page
- Keyword Research
- Add 20 pages of content (to be provided by client)
- Submit Each Page to Major Search Engines
- XML Sitemap

**A.3. Exclusions.** This Agreement does not include:

- Computer instructions
- Website design instructions
- HTML instructions
- Website support beyond that specified herein

**A.4. Conditions.** The following conditions apply to the development of the Website.

- Beyond activities posted in section A.2 all additional work will be billed as additional services as outlined in Term 5B.
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## **LUXURY WEBSITE SPECIFICATIONS**

**A.1. Purpose of Website.** The purpose of the website is to draw targeted traffic from organic search results.

**A.2. Services.** Consultant will provide the following services to design the Website:

- Provide a page layout
- Design a website header
- Design a navigation bar
- Develop a contact form
- Set up email addresses and Webmail
- Add 4 pages of content (provided by Client) to the website. 4 pages are outlined as:
  - Home page
  - About Us page
  - Services page
  - Contact page
- Keyword Research
- 35 Keyword Focused and Optimized Web Pages
- Submit Each Page to Major Search Engines
- 50 Incoming Links
- XML Sitemap

**A.3. Exclusions.** This Agreement does not include:

- Computer instructions
- Website design instructions
- HTML instructions
- Website support beyond that specified herein

**A.4. Conditions.** The following conditions apply to the development of the Website.

- Beyond activities posted in section A.2 all additional work will be billed as additional services as outlined in Term 5B.

## **EXHIBIT B**

### **BASIC WEBSITE SCHEDULE**

**B.1.** This schedule defines the major tasks to be completed during the life of the project. Individual tasks may be added, deleted or moved as required to meet the demands of the design. The elapsed times are estimates and may vary depending on workload, changes, Client submissions, and third-party service providers.

#### **Phase 1**

- Contract signing
- Initial payment or payment in full is collected

#### **Phase 2 (1-30 days)**

- Site template created
    - Header
    - Nav Bar
    - Page Layout
  - Content provided to Consultant is coded and posted live to Site.
  - Project is completed.
  - \$50 monthly hosting/retainer payments continue once website balance is paid in full.
  - Client gains ownership of its HTML files upon completion of its initial website payment plan.
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### **DELUXE WEBSITE SCHEDULE**

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#### **Phase 1**

- Contract signing
- Down payment or payment in full

#### **Phase 2 (15-30 days)**

- Keyword search and analysis completed
- Site template created
- Client provides home page, about page, contact page, and services page
- Client provides 20 pages of content based on keywords Consultant researched
- Website payments continued each month until balance is paid in full

#### **Phase 3 (30-60 days)**

- All pages are posted live to site.
- All pages submitted to all major search engines.

- \$50 monthly hosting/retainer payments continue once website balance is paid in full.
  - Client gains ownership of its HTML files upon completion of its initial website payment plan.
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- Contract signing
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### **Phase 2 (15-30 days)**

- Keyword search and analysis completed
- Site template created
- Website payments continued each month until balance is paid in full

### **Phase 3 (30-60 days)**

- All pages are posted live to site
- All pages submitted to all major search engines
- Monthly payments continue until balance is paid in full
- \$50 monthly hosting/retainer payments continue once website balance is paid in full.
- Client gains ownership of its HTML files upon completion of its initial website payment plan.

**EXHIBIT C**

**Plain Talk...**

This agreement is for the protection of the Client and Consultant. There have been no claims that Client will receive a pre-determined amount of traffic or income from this website. There have been no claims that you will rank in a specific area on the search engines results page.

The Consultant, as with all webmasters, will do the best job they can using the information provided by Client. Consultant always recommends the Client continue adding content to the website to keep it up-to-date and current. Consultant also recommends Client engage in a Link Campaign and other marketing tactics to increase the website's link popularity. Additionally Consultant recommends that Client engage in additional marketing methods and not rely solely on search engines for positive ROI.

**Plain Talk:** We have no control over your website income or traffic. We make no claims. We do our absolute best to get your website to pull traffic from the search engines, but recognize that search engines can change their algorithms at any moment. We also realize that older and larger websites do better than newer and/or smaller websites.

Finally, your website income or lack thereof is determined on many factors, that as a webmaster, we have no control over. As an example, we cannot control if your product or service is in-demand or not, priced too high or too low, facing fierce competition or simply not wanted. It's important to understand that a website is just one aspect of a business. You will still be responsible for daily business operations (examples: writing your newsletter, closing sales, returning client emails). **You can rest assured that our web-building services are top of the line and we will always be available to help you in any way that we can.**

**Plain Talk:** We offer payment plans as a courtesy to our clients; however, if you fail to pay your website payments you will not own the website files and will still be liable for paying the balance for the work due. Should you fail to pay the \$50 monthly hosting/retainer fees, you will lose the hosting and no one will be able to see your site. Please read 5.a. and 5.c. of this contract.

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Please Read This Website Design Contract in Full and Sign/Date Below  
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Yes, I Have Read All 10 Pages of This Website Design Contract and Understand It Fully.

I Understand What Comes With the Website Plan I Have Selected and I Understand That PersonalTrainerWebsiteDesign.com and Lynn VanDyke, Inc Will Do Their Best to Build a Website That Draws Organic Traffic From the Search Engines; However, I Fully Understand That It Is My Full Responsibility to Build, Market and Run My Business.

**Credit Card Type:    Visa    Mastercard    Discover    American Express**

**Credit Card Number:** \_\_\_\_\_

**Exp. Date:** \_\_\_\_\_ **Security Code:** \_\_\_\_\_ **Name on Credit Card:** \_\_\_\_\_

**Credit Card Billing Address:** \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**Please Fax This Page To Us At 1-888-771-4016.**