



# Website Terms of Service Agreement

By using any of Brian Dominey Design's services or products (website design, website updates, hosting, logo design, content writing, SEO, marketing services and online tools), you agree to be bound by the following terms and conditions "Terms of Service". Ordering this service via any method (online, email, phone, or in-person) also binds you to these Terms of Service.

Brian Dominey Design reserves the right to update and change the Terms of Service from time to time with 10-15 days written notice. Any new features that augment or enhance the current Service, including the release of new tools and resources, shall be subject to the Terms of Service. Continued use of the Service after any such changes shall constitute your consent to such changes. Violation of any of the terms below will result in the termination of your Account. You agree to use the Service at your own risk.

## SERVICE TERMS

- You must be 18 years old or older to use the Service.
- You must be a human. Automated uses of the Service are expressly prohibited.
- You must have the legal right to make decisions on behalf of your business, company, or corporation concerning any of their websites and other IT resources.
- You are responsible for maintaining the security of your account – protecting your username and password.
- You are responsible for all content posted and activity that occurs under your account. You are responsible for any changes made to your website by others acting on your behalf.
- You may not use the Service for any illegal or unauthorized purpose. You must not, in the use of the Service, violate any laws in your jurisdiction (including but not limited to copyright laws).
- By using the Service, Brian Dominey Design has the right to place a subtle link to Brian Dominey Design's website on your site. This usually means putting a link written as "Design by Brian Dominey Design" or "Design by BD Design (small logo)" on the footer of your site near your copyright statement.

## ACCOUNT FEATURES

All website plans include the following features:

- Unlimited content changes and updates (except in the case of refusal of service below).
- Content Management System that allows you to make website updates (via WordPress).
- Simple Blog that doesn't require additional custom development or design.
- The cost and ownership of one domain name that is not currently owned by a third party.
- Ongoing website security and WordPress system updates.
- Monitored website hosting including daily backups and necessary software updates.

## ONE-PAGE PLAN

ONE-PAGE PLANS include all "Account Features" listed above except the Simple Blog.

- Add-ons are available.

## STARTER PLAN

STARTER PLANS include all "Account Features" listed above PLUS the following features:

- Your existing or add-on purchased logo added, the addition of your brand colors, your provided images and your provided written content.
- Up to 5 static content pages in addition to the homepage.
- One simple email contact form with up to 10 fields. Conditional forms not included.
- [Starter Plan Website and Marketing Add-Ons](#) are available for an additional cost.
- [All available Add-Ons](#).

## PRO PLAN

All PRO PLANS include all "Account Features" listed above PLUS the following features:

- Suggested homepage content and layout with 1-page marketing message.
- Custom designed website determined by Brian Dominey Design, subject to your approval.
- Royalty free stock images if needed.

- Up to 20 static content pages in addition to the homepage.
- Two simple email contact forms with up to 10 fields. Conditional forms not included.
- Two promotional popups which can include email opt-in forms or special messaging.
- The initial setup and installation of 1 Google Analytics property.
- On-Page SEO (includes writing page titles and meta descriptions, optimizing on-page content to be easily indexed by Google, and submitting your sitemap to Google).
- Pro Plan Website and Marketing Add-Ons are available for an additional cost.
- All available Add-Ons.

## TURN-AROUND TIMES

Turn-Around Times for all Website plans are as follows:

- Emergency fixes, which include any website issue hindering clients from doing business (example: site down, functionality not working, etc...), will be completed within 24 hours.
- General revisions, which include updates or revisions that aren't otherwise categorized, will be completed within 5 business days.
- New page additions will be completed within 10 business days.
- Website and Marketing Add-Ons (available for an additional charge) will be determined per add-on.

## PAYMENT, REFUNDS AND OWNERSHIP

- A valid credit or debit card is required to use the service.
- You will be billed monthly for the Service. The Service is a subscription.
- When purchasing a website plan with an 12-month service agreement, you will continue to be billed for the remainder of your agreement, regardless of whether or not you use the service or have requested cancellation (this is to cover the initial cost of the design and development of your website).
- For upgrade in plan level or purchasing add-ons after initial 12 month agreement, the credit card that you provided will automatically be charged the new rate on your next billing cycle for the duration of the additional add-on term of 12 months.
- Please see the section below titled "Intellectual Property" below.

- Once you have fulfilled the terms of your 12-month agreement, you will obtain full ownership of your logo, website, all website content, and any other related design elements. You will be given the renewal options. If you choose not to renew with Brian Dominey Design, upon request, Brian Dominey Design will provide you with a backup file of your entire website and native logo files. However, Brian Dominey Design IS NOT RESPONSIBLE for installing, troubleshooting or supporting your website once the agreement period is complete and a backup file is provided.
- You may need to purchase software licenses for professional plug-ins used for advanced features of your website.
- All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes.

## CANCELLATION AND TERMINATION OF THE SERVICE

Brian Dominey Design has the right to suspend or terminate your account and refuse any and all current or future use of the Service, or any other Brian Dominey Design service (see Right To Refuse Service below). You are solely responsible for properly canceling your account. You are free to cancel your account at any time. All Website plans, Website Add-Ons, and Marketing Add-Ons with an 12-month service agreement will continue to be billed for the remainder of the agreement, regardless of whether or not you use the service or have requested a cancellation (this is to cover the initial cost of the design and development of your website and applicable add-ons). Marketing Add-Ons that are not part of your 12-month agreement can be canceled at any time. Marketing Add-Ons that are billed on a month-to-month basis based on written agreement at the time those services began.

If you cancel your subscription with Brian Dominey Design, you will not be eligible to repurchase or reactivate any maintenance services for the canceled site for a period of 6 months, unless you've reached the end of an 12-month agreement with the fully paid account balance. This is due to the high cost of setting up and establishing maintenance services and/or hosting for any particular site.

## INTELLECTUAL PROPERTY

When you hire us to design your website or logo, you agree that this is a work for hire contract. All rights and the intellectual property that Brian Dominey Design creates shall be transferred to you upon completion of an 12-month service agreement unless otherwise agreed in writing. The purpose of this clause is to ensure that Brian Dominey Design is reimbursed for the expense and time incurred in designing any of the above stated and agreed to elements or assets requested by you during our 18-month service agreement.

## CHANGES TO THE SERVICE AND PRICES

Brian Dominey Design reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice if payment is not received within 30 days of monthly due date or invoice. Prices of all Services, including but not limited to monthly subscription plan fees to the Service, are subject to change at time of contract renewal after 12-month term upon 30 days notice from us. Such notice may be provided at any time by posting the changes to [briandominey.com](http://briandominey.com) and/or emailing you. We shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

## RIGHT TO REFUSE SERVICE

Brian Dominey Design reserves the right to refuse to do business with you. We have the right to terminate your services and give you any applicable refunds. This may occur if we determine that your website or product, IT resources or IT needs require an extraordinary amount of effort on our part. We will try to negotiate a more suitable compensation arrangement before we terminate our relationship and services (see General Conditions below). If we terminate services, we will provide you with full ownership of any assets completed before the termination date (this may include logo, website, website content, and any other related design elements that have been completed). Upon this type of service termination, the agreement will be voided and you will no longer be responsible for the completion of monthly payments or the fulfillment of your agreement. However, if your website is not completed, we are not responsible for completion of the project upon termination.

## WEBSITE DESIGN AND RE-DESIGN

All website plans include either the design of one website OR the customization of one template depending on your chosen plan. We reserve the right to refuse to offer you this service or refund you any money paid for this service. This may happen if we deem your existing site ineligible for the website design or re-design due to its content, platform, or custom programming and integrations.

For the design or re-design, we reserve the right to build your new site on any technology platform we deem most appropriate. Usually, this will be WordPress content management system. WordPress allows us to perform your updates more efficiently, and also allows you the potential to easily add blogs, forums, and other features to your new site.

## GENERAL CONDITIONS

- Your use of the Service is at your sole risk. The Service is provided on an “as is” and “as available” basis.
- We occasionally make mistakes. The Service is not automated, but performed by human technicians. We will work to correct any human error in a timely manner.

- If you have purchased a Website Plan, you will continue to be billed for the remainder of your agreement, regardless of whether or not you use the service or have requested a cancellation.
- You understand that we use third-party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Service.
- We may, but have no obligation to, remove content and accounts containing content that we determine in our sole discretion are unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property or these Terms of Service.
- Verbal, physical, written or other abuse (including threats of abuse or retribution) of any Brian Dominey Design customer, employee, member, or officer will result in immediate account termination.
- You understand that the technical processing and transmission of the Service, including your Content, may be transferred unencrypted and involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.
- BRIAN DOMINEY DESIGN DOES NOT WARRANT THAT (I) THE SERVICE WILL BE 100% UNINTERRUPTED, TIMELY, SECURE, OR COMPLETELY ERROR-FREE (OUR SERVERS WILL PROVIDE 99.9% UPTIME FOR YOUR WEBSITE), (II) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL ALWAYS BE ACCURATE, AND (III) THE QUALITY OF ANY PRODUCTS, SERVICES INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS IF THEY ARE OUTSIDE THE REALM OF THE DESCRIBED WEBSITE PLANS.
- YOU EXPRESSLY UNDERSTAND AND AGREE THAT BRIAN DOMINEY DESIGN SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICE; (II) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; (V) OR ANY OTHER MATTER RELATING TO THE SERVICE.

- The failure of Brian Dominey Design to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service constitutes the entire agreement between you and Brian Dominey Design and govern your use of the Service, superseding any prior agreements between you and Brian Dominey Design (including, but not limited to, any prior versions of the Terms of Service).
- Neither Party shall not be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control including, without limitation, fire, weather, accident, act of public enemy, act of terrorism, war, rebellion, insurrection, strike, lockout, work slowdown, or similar industrial or labor action, sabotage, transportation delay, shortage of raw material, energy or machinery, act of God, act or omission of Customer, or the order or judgment of any federal, state, local, or foreign court, administrative agency, or other government office or body.
- Any claim or action arising out of or related to this Agreement shall be submitted by the Parties to binding arbitration in Greenville County, SC, utilizing the American Arbitration Association rules for arbitration Notwithstanding the above, the forum to enforce the decision of any arbitration proceeding shall be brought in a court of competent jurisdiction in the state or federal courts of Greenville County, SC. This Agreement shall be construed and interpreted according to the laws of the State of South Carolina, without regard to its choice or conflict of law principles.
- If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, then that provision shall be enforced to the extent permitted by law, and the rest of the agreement shall remain in full force and effect.
- For the design or re-design, we reserve the right to build your new site on any technology platform we deem most appropriate. Usually, this will be WordPress content management system. WordPress allow us to perform your updates more efficiently, and also allow you the potential to easily add blogs, forums, and other features to your new site.