

# Terms and Conditions for EcommWeb and/or NPN

## Definitions

<b>Terms and Conditions:</b>	These Terms and Conditions are the full, original and unabridged version of the Terms and Conditions which rule all transactions with EcommWeb and/or NPN, and take precedence over any shortened or translated Terms and Conditions, either of an earlier or a later date.
<b>EcommWeb:</b>	Trade name of Ecomm Web Net Foundation, registered at the Chamber of Commerce in Rotterdam, Netherlands under number 24322801. Ecomm Web Net Foundation works in close cooperation with NPN.
<b>NPN:</b>	Trade name / Registered Trademark (Nepal) of Networking Professionals of Nepal Pvt. Ltd., Registered with the Company Registrar Office in Tripureshwor, Kathmandu, Nepal under number 43872/063/064.
<b>Customer:</b>	Every adult natural person or legal entity with which EcommWeb and/or NPN enters or intends to enter into an agreement. Legal entities may be represented by adult individuals who act on behalf of the legal entity.
<b>Web Hosting:</b>	The service of storing and publishing a website and related data on the Internet.
<b>Web Design:</b>	The process of designing a website in accordance with a previously made agreement.
<b>Layout:</b>	The layout and design of a website.
<b>Content:</b>	The information being displayed on a website.
<b>Website:</b>	A combination of layout and content, which when combined form the website.

## Article 1      **APPLICABILITY**

- 1.1 These Terms and Conditions apply to any and every offer or agreement between EcommWeb and/or NPN and client, unless explicitly and in writing otherwise agreed on by all parties.
- 1.2 Any Terms or Conditions of the customer will not be accepted by EcommWeb and/or NPN unless explicitly and in writing otherwise agreed on by all parties.
- 1.3 If one or more provisions of these Terms and Conditions are not valid or partly not valid by governing law, then the appropriate standard conditions of the Code apply, and the remaining provisions of the Terms and Conditions will remain in effect. The invalidated provisions will as much as possible be replaced by similar provisions which are valid.
- 1.4 In case of an amendment of these Terms and Conditions, EcommWeb and/or NPN will publish the new Terms and Conditions at least 4 weeks prior to the effective date by publication on the website. If the customer does not agree to the amended terms, then the customer has to give notice of this in writing, at the latest before the new Terms and Conditions take effect. In this situation the old, accepted Terms and Conditions will remain in effect. If this is explicitly unacceptable for EcommWeb and/or NPN, then the agreement can be terminated unilaterally by EcommWeb and/or NPN. Either with or without automatic renewal at maturity date in place, always and automatically the last published Terms and Conditions will become in effect at renewal of the contract.
- 1.5 Version number and date of this version of the Terms and Conditions are printed at the bottom of this document.

## **Article 2 OFFER**

- 2.1 Every offer by EcommWeb and/or NPN has a validity of one month, unless otherwise stated in the offer.
- 2.2 All prices in any offer are exclusive of VAT unless VAT amounts are explicitly noted in the offer.

## **Article 3 COMMUNICATION**

- 3.1 Communication with EcommWeb and/or NPN can occur in various ways. Not all technical solutions for communication in use are suitable for binding agreements. All important communications with customers will occur or at least be confirmed by email, postal mail or fax. Ultimately, only the transcription of an earlier communication by email, postal mail or fax is an agreement which the customer can refer to as binding, and then only after EcommWeb and/or NPN have confirmed this agreement either by email, postal mail or fax.
- 3.2 Email contacts with EcommWeb and/or NPN can utilise different email addresses. Email addresses can change over time, and current email addresses may become invalid. We will always keep the following email addresses active: **info@ecommweb.nl**, **info@ecommweb.net** and **info@nbn.com.np**.

## **Article 4 AGREEMENT**

- 4.1 An agreement between the Customer and EcommWeb and/or NPN is established when the Customer issues an order, and EcommWeb and/or NPN accept and confirm said order.
- 4.2 If the Customer is not supplying EcommWeb and/or NPN with all the requested information, then EcommWeb and/or NPN cannot be held to accept the order. If EcommWeb and/or NPN decide to accept and confirm said order anyway, then EcommWeb and/or NPN will bill the current hourly rate for the extra works needed to complete the missing information.
- 4.3 Unless agreed otherwise, a contract will run for one year.
- 4.4 A contract coming to maturity will automatically be ended, unless the Customer indicates the contract should be continued before the date of maturity, in which case the contract will be prolonged with a similar period, unless otherwise agreed in writing.
- 4.5 EcommWeb and/or NPN can change prices and / rates at any time. EcommWeb and/or NPN publish the going rates and current prices on our websites. Billing will happen against the current going rates and prices.
- 4.6 EcommWeb and/or NPN may terminate the contract at any time if the Customer fails to comply with the obligations set out in Article 8. The remains obliged to meet all payments for the remainder of the agreement.

## **Article 5 SERVICES**

- 5.1 The various services offered by EcommWeb and/or NPN can all have their own specific additional terms, conditions, rules, regulations, restrictions or permissions. Where for a specific service special conditions exist, they should be seen as an integral part of these Terms and Conditions. Services specific conditions can be found on our websites, in the same web folder as where the latest version of these Terms and Conditions is found.
- 5.2 For as far as the service specific conditions are concerned, the customer has the duty to collect the latest version of the applicable service specific conditions from the website, and take notice of these conditions.

## **Article 6 PAYMENT**

- 6.1 EcommWeb and/or NPN have set the default term for payment of open invoices to 14 days counted from the invoice date, unless otherwise agreed in writing.
- 6.2 EcommWeb and/or NPN use the following terms for payment:
  - (I) webhosting and management services: Prepaid per contract term
  - (II) webdesign: Advance payment per assignment
  - (III) additional services, like consultancy or extra work: 100% based on actual costs
  - (IV) domain registrations: Prepaid per minimum duration.For domain registrations the effective start date is the date the amount is payable for the minimum duration of this specific TLD's registration period. For most TLD's (Top Level Domains) this period is

- 1 year, for a few TLD's this is 2 years, and for some TLD's even longer, like 5 or even 10 years.
- 6.3 In case of late or no payment the Customer will automatically have defaulted without there being a need of any further announcement of defaulting. EcommWeb and/or NPN can suspend or deny any service delivery if the Customer is in default.
- 6.4 If EcommWeb and/or NPN have registered or renewed any domain name in name of the Customer, and the Customer remains in default of any open bills or invoices towards EcommWeb and/or NPN, then EcommWeb and/or NPN can transfer ownership of any domain name registered by the Customer into their own name, thus preventing the Customer to move to a new service provider without paying defaulted bills or invoices. Costs associated with these ownership transfers will be billed to the Customer.
- 6.5 If the Customer is in default, the amount owed will gather 1% interest per month which will be added to the owed amount. Also the Customer will be billed for the collection costs. These costs amount up to a minimum of 20% of the owed amount, where this minimum amount will not exceed EUR 250,00, or the actual costs, if these are higher.
- 6.6 If the Customer has permitted for direct debiting his bank account, then the Customer is obliged to keep sufficient funds in the account. If an amount is not collectable, the Customer will arrange for payment within 14 days from the invoice date.

#### **Article 7 OBLIGATIONS ECOMMWEB AND/OR NPN**

- 7.1 Any agreement with EcommWeb and/or NPN constitutes of no more than a commitment to deliver the requested service. EcommWeb and/or NPN will, within reasonable bounds, do there utmost to deliver the requested service.
- 7.2 EcommWeb and/or NPN will in all reasonableness and fairness provide the requested service within the specified deadlines.. By simply failing to meet a deadline EcommWeb and/or NPN are not in default of delivery and the Customer has no claim to damages or rescission of the contract.
- 7.3 EcommWeb and/or NPN will not execute any control on the content of the Customers website, the email communications or any other files belonging to the Customer, except in the following cases:
- (I) If EcommWeb and/or NPN are legally obliged to carry out such an audit
- (II) If the Customer is acting or suspected of acting contrary to the obligations mentioned in Article 8.
- 7.4 EcommWeb and/or NPN will seek to minimize any changes in the equipment in use, the software, the methods of operation, the user names and passwords. EcommWeb and/or NPN will implement changes when there is a need. Changes believed to interrupt the services provided will be announced by email to the Customers in a timely fashion.
- 7.5 EcommWeb and/or NPN are entitled to disable systems partly or in whole for reasons of (replacing) maintenance for limited periods of time. In these regards EcommWeb and/or NPN will not be liable for any costs or compensation. EcommWeb and/or NPN will keep the time of interruptions of service as short as possible, and whenever possible plan maintenance during quiet hours.

#### **Article 8 CUSTOMER OBLIGATIONS**

- 8.1 The Customer will behave as a responsible internet user, and will not disturb or harm other users in any way.
- 8.2 The Customer shall refrain from:
- (I) any acts contrary to laws or regulations
- (II) any acts contrary to good morals, including but not limited to the provisioning of pornographic or ethically irresponsible materials
- (III) any acts with the purpose to spread unwanted information, including but not limited to the provisioning of so-called warez, illegal software, serial numbers, copyrighted materials or references to such materials
- (IV) any acts contradictory to the agreement
- (V) any acts contradictory to these Terms and Conditions
- (VI) any acts aimed at unlawfully gaining access to systems, software, databases or third party networks
- (VII) any acts aimed at investigating or breaking into security of systems, software databases or third party networks
- (VIII) any acts which violate or have the apparent purpose to violate copyrights
- (IX) sending spam email, bulk email, chain letters, mail bombs, etc.
- (X) introducing or spreading computer viruses
- (XI) any acts of harassment towards others
- (XII) any acts which would interfere with the correct functioning of systems belonging to EcommWeb and/or NPN or hindering other users or customers of these systems.
- 8.3 by 'any acts' in the previous paragraph should also be understood the inclusion in the content or

design of the website.

- 8.4 The Customer acknowledges now and when this occurs his liability and intent at violating article 8.2 on the damaging of the good name of EcommWeb and/or NPN and forfeits immediately an amount of EUR 25.000,- per event, regardless of any additional fees to EcommWeb and/or NPN for its costs and further damage.
- 8.5 The Customer has the obligation to keep user names and passwords confidential. If it is suspected that the Customer no longer has possession of the user name and password, or that others may have taken possession of them, then the Customer is obliged to inform EcommWeb and/or NPN of this immediately.
- 8.6 The Customer must ensure adequate security of data and software, including but not limited to making off-site backups.

#### **Article 9 LIABILITY**

- 9.1 The Customer remains responsible for the website at all times. EcommWeb and/or NPN cannot be held responsible in any way for any consequences by:
- (I) the unavailability of data or the incorrect display of information
  - (II) the data stored, or the loss thereof
  - (III) the content or design of the website, or the loss thereof
  - (IV) failure to perform the obligations mentioned in Article 8.
- 9.2 Other than a by EcommWeb and/or NPN entered obligation of restoration of services, EcommWeb and/or NPN are not liable for any possible damages arising from or related to any failure to live up to an agreement, any tort or otherwise committed against the other party, excluding liability for direct damages caused by gross negligence or intent of persons belonging to EcommWeb and/or NPN. This liability is limited to a maximum of the amount of the agreement.
- 9.3 Liability of EcommWeb and/or NPN for indirect damages, including but not limited to consequential damages, lost profits, lost savings and damage due to business interruption is excluded.
- 9.4 EcommWeb and/or NPN disclaim all liability for the information published by the customer. The customer agrees to indemnify EcommWeb and/or NPN, its affiliates, directors, employees, agents or any other representative of EcommWeb and/or NPN against any liabilities, losses, damages or costs, including reasonable attorneys' fees, as consequences of a claim, action or dispute with third parties or the question concerning your use of the Services, your violation of any provision of this Agreement, or from your placement or transmission of any material or content in the servers of EcommWeb and/or NPN.
- 9.5 The customer is liable for damages caused by wrongful use of user names or passwords.

#### **Article 10 FORCE MAJEURE**

- 10.1 EcommWeb and/or NPN are not obliged to perform any obligation if prevented from doing so as a result of a non-attributable shortcoming (force majeure). Force majeure will in any case be understood as disease and/or absence of key personnel, defects in or failure of equipment or facilities, including telecommunications facilities, energy facilities, failures of suppliers, strikes, riots, governmental action, fire, natural disasters, floods and molestation. Each party, if this condition persists for at least 14 days, is entitled to terminate the agreement without the other party being entitled to compensation for any damage regarding this termination of the agreement.

#### **Article 11 GOVERNING LAW**

- 11.1 The (legal) relationship between EcommWeb and/or NPN and the Customer is being Governed by Nepalese law.
- 11.2 Parties shall present all disputes arising from the in the preceding paragraph meant legal relationship only to a qualified court in Kathmandu, Nepal. EcommWeb and/or NPN reserve the right to choose a different jurisdiction.

Activation date of this Agreement: 30 August 2010

Version of this agreement: 0.8