

# ComeUpSmiling Web Design

## Full Terms and Conditions

Revised 18<sup>th</sup> March 2008

- a. Quotes and estimates are valid for 60 days. After this time, all prices are subject to change.
- b. Any estimate given by *ComeUpSmiling* is given in good faith, but may be subject to change should Third Party suppliers vary their costs. *ComeUpSmiling* will give the Client as much notice as is practicable upon becoming aware that the cost of any estimate is likely to change.
- c. Where reference is made to *Webhosting for one year*, or similar references, then this period begins once *ComeUpSmiling* is commissioned to start the webdesign.
- d. Once a quotation has been received, payment of a deposit by the Client is deemed to confirm that approval for work to commence has been agreed, and that the Client accepts the terms and conditions outlined in this document. The quotation will thus form the basis of the contract between *ComeUpSmiling* and the Client. This contract is governed by the laws of England and the jurisdiction of the English Courts.
- e. The following payment terms apply (unless otherwise agreed in writing or via a confirmed email with *ComeUpSmiling*). All previously agreed third party costs (e.g. web hosting etc) must be met in full prior to such elements being actioned. For all other costs: 30% of total with order, the remaining 70% in staged payments (subject to the Client's approval of each design phase). Sites involving a database component, or large/complex sites, are normally subject to a **minimum non-refundable deposit of £500**. Please also refer to our Web Design Guarantee.
- f. All text and images should be supplied to us in a suitable electronic format (e.g. text as Word files and images as jpegs) and suitable size. Unless specifically detailed, scanning of images, creation of non-standard graphic or text components (e.g. curved borders, overlapping images, unique buy/basket icons, buttons, JavaScript or Java effects etc) and merging or other manipulation of graphic images is **NOT** included in any quote.
- g. Some designs may require the use of Third Party software or programming. Save for supply of such, *ComeUpSmiling* shall have no liability in respect thereof. Restrictions as to use etc. shall be as laid out in the Third Party License and Copyright agreements.
- h. The Client must own the copyright or have reproduction rights of all content supplied to *ComeUpSmiling* for inclusion in the web design. The Client shall indemnify *ComeUpSmiling* for any and all costs whatsoever in connection with ownership of the copyright or reproduction rights.
- i. *ComeUpSmiling* cannot be held liable for any information contained within the Client's Website. The content of their web site remains the copyright property of the Client. The Client is liable for any reasonable costs incurred by *ComeUpSmiling* caused by the content of the Client's site, and agrees to indemnify *ComeUpSmiling* for any awards made by a court of law.
- j. *ComeUpSmiling* reserves the right to refuse publication on the web of any content it sees as being pornographic, offensive towards others, or as being copyright to someone other than the Client.
- k. *ComeUpSmiling* may hold domain names and/or hosting services temporarily on the Client's behalf using Third Parties. *ComeUpSmiling* cannot be held liable for any failure in any services provided by a Third Party to *ComeUpSmiling* on behalf of the Client.
- l. If appropriate, *ComeUpSmiling* will temporarily publish on part of the *ComeUpSmiling* website, a design proof and/or samples, which are then subject to the Client's approval.
- m. Unless agreed otherwise in writing, sites are designed to be viewed and assessed against the standard of a PC viewing at resolutions of 1024 by 768, or 1280 by 1024, using Windows Internet Explorer versions 6 and 7, Firefox 2, and Opera 9. *ComeUpSmiling* cannot accept responsibility for pages which do not display acceptably in less common browsers, or earlier versions of Internet Explorer, Firefox or Opera. Similarly, *ComeUpSmiling* cannot accept responsibility for pages which do not display acceptably in versions of browsers released after the pages have been designed.
- n. Site design and all relevant programming remain the copyright of *ComeUpSmiling* until full payment is received; however, this does not include any coding for which Third Party copyright is already held (e.g. certain database functions and special effects) - consequently, such programming shall not be modified without the express permission of the original Third Party copyright holders.
- o. Any Royalty-free images used by *ComeUpSmiling* as part of the web design are under a separate licence and such images **may not be used in any other context or application**, be it another web design or an alternative form of advertising.
- p. Any further modifications once the web design has been released will be chargeable under separate terms, unless such changes form part of a prior written agreement.
- q. *ComeUpSmiling* cannot guarantee Search Engine acceptance and/or ranking, as these are under the direct control of various Third Parties.

- r. Should a problem arise with the server hosting the Client's website, *ComeUpSmiling* will not be held liable for any consequent losses e.g. loss of revenue.
- s. *ComeUpSmiling* will ensure that contact and similar forms are working but can accept no responsibility or claim for liability should the email responses from such forms be filtered out by software such as spam filters, or for inaccuracies within such forms.
- t. Should any other problem arise with the operation or running of the website, from whatever cause, *ComeUpSmiling* will not be held liable for any consequent losses e.g. loss of revenue.
- u. Whilst every care is taken to ensure that the website design, coding and scripts are free of errors, *ComeUpSmiling* will not be held liable for any losses incurred due to malfunction of such coding or scripts on the Client's website. The ultimate responsibility lies with the Client to ensure that all coding and scripts are functioning correctly before final payment is made.
- v. It is the Client's responsibility to ensure that the website and its content comply with all relevant standing regulations. *ComeUpSmiling* will not be held liable for any failure to comply with regulations related to accessibility, selling online, or those related to a specific business or trade.
- w. *ComeUpSmiling* is not responsible for support once the period detailed in the agreed quote has ended (generally one year from *ComeUpSmiling* receiving the initial deposit). However, future support can normally be provided upon request for an agreed fee, strictly on a yearly basis, as detailed in the Design Support section below.
- x. By requesting a quote or making a purchase, you agree that you have read, understand, and agree to abide by these terms and conditions, which are presented for your approval before you make your decision to request a web design quote or purchase.

## Design Support

- a. 'Design Support' covers problems or difficulties encountered when using any website, pages, forms, etc., created by *ComeUpSmiling*. Specifically, this would include: pages/images failing to load, pages/images not loading correctly, and forms not working. For ecommerce sites using JShop Server, design support also includes product, basket, checkout, newsletter aspects etc. not working correctly; however, it does NOT include problems originating from a payment gateway as this is under the control of a Third Party.
- b. Design Support does **not** include any acceptance of liability should problems arise with the operation or running of the website, from whatever cause, and *ComeUpSmiling* will not be held liable for any consequent losses e.g. loss of revenue.
- c. Design Support does **not** include sites or pages apparently loading slowly (this is very dependent upon the site content, the browser used, the computer, and the Internet connection), **nor** does it include any guarantees or promises with respect to search engine ranking or placement.
- d. Design Support does **not** include correcting any changes made by the Client (or their representatives) to the site. Such corrections could, however, form part of the available free updates or free redesign work. Corrections beyond this free update time will be charged at 95% of the list price for the first year.
- e. Design support only covers problems encountered with the specific versions of Internet Explorer, Firefox and Opera detailed in the agreed quote.
- f. The initial request for design support should be made either by email or phone. Support is not offered or intended to be offered on a 24/7 basis; nevertheless, *ComeUpSmiling* will strive to respond as soon as is practicable to any problems or difficulties covered by our design support.
- g. In some instances a temporary solution may be applied until the problem can be satisfactorily resolved. If the problem or difficulty lies directly or indirectly with a Third Party or Third party software, then *ComeUpSmiling* will do its very best to solve the problem, but unfortunately no guarantees can be made as this is entirely under the control of the appropriate Third Party.
- h. Design support does not include making changes to any web design other than to solve problems as detailed above. Such changes would however form part of any available free updates or free redesign work.
- i. Clients may prefer to make several minor changes or to make fewer more complex changes. In either case, the total time not charged for is detailed in the agreed quote and is also given above.
- j. Design work carried out in excess of agreed 'free' updates, will be charged at discounted rate for the first year. No design work will be carried out on this basis without first seeking the Client's approval as to the extent and likely cost. In some circumstances an initial deposit may be required.