



"Helping Small Businesses  
Compete on the World  
Wide Web since 2001."

11207 NW 26<sup>th</sup> Ave, Vancouver, WA 98685  
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## Terms of Service

*Last updated on: Friday, 28 January 2011*

When you purchase services from us you are indicating agreement to and understanding of the information provided herein.

Definition of Terms:

**SiteBuilder Now and Coburn Enterprises are DBAs of Harmony Coburn**, a Sole Proprietor. Billing and services agreements and statements, Credit Card Charges and other correspondence may carry the names **SiteBuilder Now** or **Coburn Enterprises** depending on the type of product and/or service purchased by the Client.

**The Client**, as referred to herein is the purchaser of services and products provided by Harmony Coburn under the DBAs SiteBuilder Now or Coburn Enterprises heretofore referred to as Service Provider.

**Custom Projects.** A Custom Project is a specific design, development or marketing request which is requested by the Client with an associated proposal via written communication requiring acceptance by signature or email acknowledgement by the requesting Client.

**Web and Email Hosting.** A web hosting service is a type of Internet hosting service that allows individuals and organizations to make their own website accessible via the World Wide Web. Web hosts are companies that provide space on a server they own or lease for use by their clients as well as providing Internet connectivity, typically in a data center. Web hosts can also provide data center space and connectivity to the Internet for servers they do not own to be located in their data center, called co-location. An email hosting service is an Internet hosting service that runs email servers. SiteBuilder Now is a qualified Web and Email Hosting provider with servers located in Lansing Michigan at the [Liquid Web Data Centers](#).

**Consulting.** The process of discussing the Client's needs, wants, goals and objectives as they relate to their Internet presence.

**Web Marketing:** promoting your website via social networking, blogs, groups, search sites and other websites that contain complimentary content. Outlining recommendations to the Client to assist them in the promotion and success of their website. These services may be provided via bundled products purchased via the website or on a project quote basis.

**Search Engine Optimization (SEO):** The process of editing content contained in your website including articles, image alt tags, page titles, captions and any other written words which are readable by search software ("search bots") to optimize the understanding of the search software of what your website is about.



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**Web design** is the skill of creating presentations of content (usually hypertext or hypermedia) that is delivered to an end-user through the World Wide Web.

**Web development** is a broad term for any activity to developing a web site for the World Wide Web or an Internet. This can include e-commerce business development, web design, web content development, client-side/server-side scripting, and web server configuration. However, among web professionals, "web development" usually refers only to the non-design aspects of building web sites, e.g. writing mark-up and coding. Web development can range from developing the simplest static single page of plain text to the most complex web-based Internet applications, electronic businesses, or social network services.

**Site Maintenance:** The act of updating, editing, modifying or adding content, images or graphics to a website upon request by the Client.

**Monthly Budget Guideline.** A maximum monthly amount a client is willing to pay for services that are tracked as billable time.

**Domain Registration.** A **domain name** registrar is an organization or commercial entity, accredited by the Internet Corporation for Assigned Names and Numbers (ICANN) or by a national country code top-level domain (ccTLD) authority, to manage the reservation of Internet domain names in accordance with the guidelines of the designated domain name registries and offer such services to the public. **A Domain Name** is often referred to as your "URL" such as yourdomain.com. A domain name is required to provide an address on the World Wide Web that can be distributed throughout the Internet to tell the public which computer your website is currently hosted on.

Hosting and Design Services Background:

The Client is of the opinion that the Service Provider has the necessary qualifications, experience and abilities to provide services in connection with the business of the Client. The Service Provider is agreeable to providing such services to the Client, on the terms and conditions as set out in this Agreement and any associated written estimates, proposals, quotes or email requests initiated by the Client and confirmed by electronic communication, fax or any other legally recognized form or written correspondence.

Term of Agreement related to specific services offered by the Service Provider:

**Consulting and Ongoing Design Services** are purchased on an as needed basis (see Site Maintenance) and billed in accordance with actual time as documented using the SiteBuilder Now "Punch Clock" method.



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**Initial consultation agreements** may be established with a flat fee based on estimated time involved for reviewing a client's situation and returning a report and next steps proposal. It is standard practice for the Service Provider to propose an initial consultation at a quoted rate via email and act upon the proposed initial consultation in good faith without pre-payment.

**By establishing an online account** with the Service Provider and scheduling an initial consultation you are accepting the initial consultation costs as stated in the consultation proposal email and thereby agree to pay the proposed amount upon invoice. You may request future services via email. Consulting and design fees are tracked as performed and billed to the client once each month via invoice.

**Monthly Budget Guidelines.** If the client states a monthly budget guideline then the Service Provider will notify the client if the client's requests are nearing the budget guideline prior to the end of the billing cycle and ask for written approval from the client to exceed the monthly budget guideline. In the event that the client does not want to exceed their monthly budget then the project will be postponed until the next billing cycle and picked up again.

**Custom Projects** shall commence upon acceptance of the proposal and receipt by the Service Provider of any agreed upon down payment and continue until completion of the Project Design or Services for each project as outlined on the associated estimate(s) provided for each project. An example of a Project is the initial development and design of a custom website or e-commerce site. Project guidelines are separate from ongoing consulting and design fees but can run concurrently with an ongoing consulting and design relationship.

**Hosting Services** begin upon order placement. Both parties agree that hosting services will be auto renewed at the end of each term unless the Client notifies the Service provider of their intent to discontinue said services within 30 days prior to the renewal date. This can be done via email, mail or your Account Manager interface. No refunds will be made on pre-paid hosting. Hosting services are subject to the posted legal policies and all other acceptable use notices posted and updated on the Service Provider's web site. You can view these policies at <http://www.sitebuildernow.net/index.php/the-legal-stuff> or you may request a printed copy of these documents by emailing [legal@sitebuildernow.net](mailto:legal@sitebuildernow.net) with the subject line REQUEST FOR AUP or you may make a written request to Legal - SiteBuilder Now, 11207 NW 26 th Ave , Vancouver , WA 98685.

**Hosting Bundled with design services:** When purchasing selected design and hosting packages full payment for the design services is due at order placement. Upon approval and activation of your hosting account and order you will be sent an email with links to documents that are REQUIRED to be completed and submitted, along with any artwork and content the Client is providing including your LOGO and/or design color and style preferences, in order for us to begin your project. We will begin the design of your new website within 5 days of the receipt of your LOGO and/or design color and style preferences. Your project will be completed in 30 days or



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less AS LONG AS THE CLIENT HAS PROVIDED ALL DATA AND MATERIALS REQUESTED OF THEM within 48 hours of written request via email. In the event that the Client does not provide materials within 48 hours of request the Client understands their project completion may be delayed and placed in our project queue to be worked on after other projects have been completed. Provided the Client has acted in good faith and delivered all requested materials in a timely fashion, in the event that SiteBuilder Now does not deliver the project within 30 days of the initial receipt of the LOGO and/or design color and style preferences the client has a right to Cancel their project order. Please review our Cancellation Policy below for full details.

**Exclusive rights to website content.** All content posted, stored edited and maintained by the Client is the sole property of the Client. The Client may at any time delete, copy, transfer or edit their data. SiteBuilder Now accepts no responsibility or liability for content posted, edited or stored by the Client. SiteBuilder Now STRONGLY recommends that the Client maintain copies of all website files and content in a location separate and secure from their web server. In the event a Client violates any policies stated by SiteBuilder Now their files, directories folders and content are subject to IMMEDIATE removal. Files deleted from the server are not recoverable.

**SiteBuilder Now Tools** Hosting Included packages have special limitations. **PLEASE READ CAREFULLY!** When you purchase a SiteBuilder Now Tools (build your own website) package from SiteBuilder Now you are purchasing 2 hosting environments. 1) is the Hosting Account on the SiteBuilder Now servers. This account includes Email and Disk Space as outlined in the "hosting package" - in order to take full advantage of this disk space you will be required to use FTP and other tools NOT included in your SiteBuilder Tools. 2) is the DEVELOPMENT HOSTING package - when you edit and manage your SiteBuilder Now Tools website you are actually working on our DEVELOPMENT server. This server has a different Disk Storage Allocation. You can view your usage of this Disk Space by logging into your SiteBuilder Now Tools account. In order to effectively use your Development Server Storage we HIGHLY recommend you take time to visit our Knowledge base and learn about Preparing your images for the web. We are also available by phone to answer additional questions. Please note that actual training would fall under our consulting fees and would need to be ordered and scheduled.

**Limited Liability:** Client and Service Provider agree that there is no stated or implied warranty of data integrity or storage for files, content and data stored by Client on the SiteBuilder Now servers. Although Service Provider will make every effort to maintain reasonable back ups and historical resources on behalf of the Client it is agreed herein that the Client takes 100% responsibility for maintaining current and accurate off-site backups of all data stored on the server. In the unlikely event of a complete loss of data from the Service Providers equipment Client will have no recourse and should therefore maintain regular off-site backups of all data, licenses and other information required to move their website, email, databases and other data to another service provider.



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**Domain Registration Services** are a courtesy of SiteBuilder Now and the Client is ultimately accountable for the renewal and management of these services including but not limited to maintaining current contact information with the underlying registrar and paying future registration fees as they are due. SiteBuilder now is an authorized reseller of the following ICAAN Approved registrars: ENom and It's Your Domain. Your domain registration or renewal will be placed with the applicable registrar based on your purchase using our online domain registration tools. You can return to this site at any time to manage, edit or update your domain records. Our underlying domain wholesaler is ENom. We offer this information to our customers and recommend they keep it in a safe place in the event that they ever have a need to reach the underlying registrar. If you are ever in question as to who your underlying registrar is you can get more details by using any "WhoIs" service readily available on the internet. We recommend DNSStuff.com. Domain purchases are NON-REFUNDABLE. Please make sure to verify your spelling etc. before completing your transaction!

**Reservation of Rights:** Once work has been accepted by Client, work will only be altered by Designer/Service Provider with an additional contract and additional fees. Designer/Service Provider retains rights to use the project for portfolio purposes provided proper credit is given to the Client. Upon final payment for each project Client gains 100% royalty free rights to use each resulting graphic, illustration or image without restriction or any limitation of any kind. Designer/Service Provider hereby agrees that they are not retaining any specified or implied rights to the materials provided to the Client except if and when such rights are clearly agreed upon in writing by signature of both parties prior to commencement of any project.

**Payment:**

**All recurring invoices are due Net 15 days.**

**New domain name registrations or transfers and initial hosting** account orders are due upon order placement.

**Down payments and final payments** are due as outlined in the associated project agreement.

**Projects:** At contract signing 50% of project fee (excluding monthly recurring charges) is required. Hosting and other monthly recurring fees will be billed in accordance with the project estimate guidelines. Payment of the additional 50% of the project fee and any additional fees outlined in the project estimate are due on delivery of final project.

**Site Maintenance:** Site maintenance can be requested and billed at the regular rates herein. Site Maintenance fees are billed once a month for cumulative 1 minute increments. Each invoice will include a detailed report for how the hours/minutes were accumulated during the monthly cycle. Maintenance requests must be submitted via email or approved in writing via fax or in person meeting with initialled documentation using the Site Maintenance Request form.



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**Time is of the Essence:** Time will be of the essence of this Agreement and of every part hereof. No extension or variation of this Agreement will operate as a waiver of this provision. In the case that the Client fails to deliver content, images, revision requests or other data and materials requested by the Designer/Service provider within 7 days of the documented request date Client agrees Designer/Service provider may at that time issue a final invoice for the project. In the event that the Designer/Service Provider fails to deliver within 10 days of the agreed upon Project Completion date Client may execute a cancellation of this project in accordance with the Cancellation clause in this agreement.

**Cancellation:** In the event of cancellation of the project a pro-rated fee for work completed, based on the contract price and expenses already incurred by the Service Provider shall be paid by the Client. In the event that the down payment does not cover all fees incurred the Client agrees to pay the difference. However, if the project is cancelled due to verifiable failure of the Service Provider to deliver the project under the terms outlined within the project estimate it is understood that the Client would have a right to a full refund of the down payment. In the event the client is granted a full refund they agree to return any and all project artwork, licenses, software and/or other materials that have been provided to them during the course of the project development phase. Additionally, in the event the Client is granted cancellation and a full refund on the project they understand that the Designer/Service Provider would retain all copyrights and reservations associated with this project excluding any artwork, content or other material directly supplied to the Designer/Service Provider by the Client.

**Penalties:** When appropriate SiteBuilder Now will offer project specific compensation guidelines that may include additional compensation to the client in the event of unnecessary delay of delivery on the agreed upon project timeline. Please review all documents associated with each Project for complete details.

**Fee Structure :** All time, including travel hours, spent on the project by professional, technical, and clerical personnel will be billed. (Travel time is billed based on Google Maps estimated time for travel to and from the client's location) The following approximate ranges of hourly rates for various categories of personnel are currently in effect:

Hourly Rate	Category
\$65.00 to \$150.00	Programmer
\$75.00	Graphic Designer, Flash, Java (outsourced)
\$65.00	Graphics Editing, Stock Photo acquisition, CSS and other standard in-house design services used in the process of web design.
\$65.00	Consultations



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\$65.00	Web Marketing and promotion
\$65.00	Search Engine Optimization, Content development, Copy Writing

**Hourly rates** will be adjusted semi-annually to reflect changes in the cost-of-living index as published. If overtime for nonprofessional personnel is required, the premium differential figured at time and one-half of their regular hourly rate is charged at direct cost to the project. Unless otherwise stated, any cost estimate presented in a proposal is for budgetary purposes only, and is not a fixed price. The client will be notified when 75 percent of any budget figure is reached. Refer to your Estimate.

**Capacity/Independent Contractor:** It is expressly agreed that the Service Provider is acting as an independent contractor and not as an employee in providing the Services hereunder. The Service Provider and the Client acknowledge that this Agreement does not create a partnership or joint venture between them.

**Modification of Agreement:** Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.

**Severability:** In the Event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of the Agreement.

**Currency:** Unless otherwise provided for, all monetary amounts referred to herein will be paid in US dollars.

**Permissions and Releases:** The Client agrees to indemnify and hold the Services Provider harmless against any and all claims, costs, and expenses, including attorney fees due to materials included in the work at the request of the Client for which no copyright permissions or privacy release was requested or for which uses exceed the uses allowed pursuant to the permission or release.

**Entire Agreement:** It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressed in it.

**Assignment:** This Agreement is a personal one, being entered into in reliance upon and in consideration of the personal skill and qualifications of the Designer/Service Provider. The Designer/Service Provider will not voluntarily or by operation of law assign or otherwise transfer the obligations incurred pursuant to the terms of this Agreement without the prior written consent of the Client.



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**Governing Law:** This Agreement and associated estimate(s) shall be binding upon the parties, their heirs, successors, assigns, and personal representatives. This Agreement and the associated estimate(s) constitute(s) the entire understanding of the parties. Its terms can be modified only by an instrument in writing signed by both parties, except that the Client may authorize expenses or revisions via electronic mail. No terms attached to any check for payment under this Agreement can modify the Agreement except under an independent instrument in writing signed by both parties. Any dispute regarding this Agreement shall be arbitrated in Vancouver, Washington . This Agreement shall be governed by the laws of the State of Washington and courts of such state shall have exclusive jurisdiction and venue.

**Acceptance:** By registering for an account with SiteBuilder Now, a Coburn Enterprises Company owned in whole by Harmony Coburn, Sole Proprietor DBA SiteBuilder Now, Coburn Enterprises, you accept all terms and conditions as stated herein and agree to be bound by all future modifications which can be made without further notice. Please take time to review these terms in full prior to accepting them and bookmark this page for future reference.