

# **Website Transfer Agreement**

## **1. General Information**

Newfold Digital, Inc., and its subsidiaries, affiliates and brands ("Newfold") provides the following terms of service for the Website Transfer service (the "Service"). By using the Service, you, hereafter referred to as Client, agree to the following terms and conditions. This document outlines the terms and conditions of the Service, the obligation of the Client and the obligation of Newfold. Please review this document carefully before requesting the Service. Newfold provides its Service to the Client as subject to the following Terms of Service, hereafter referred to as TOS. The TOS may be updated at any time without notice to the Client.

## **2. Refusal of Service**

Newfold reserves the right to refuse service to anyone for any reason. This includes, but is not limited to, refusal to serve clients whose sites contain content deemed adult related, sexual products, nudity, persecution, slander, illegal activities, illegal goods or drugs, information used to harm any people or animals, or information used to destroy other people's intellectual property.

## **3. Confidential Information**

Newfold will not use or disclose to others without Client's written consent Client's confidential information, except when reasonably necessary to perform the Service under this Agreement. "Confidential information" includes, but is not limited to:

- A. The written, printed, graphic or electronically recorded materials furnished by Client for use by Newfold;
- B. Client's business plans, customer lists, operating procedures, trade secrets, design formulas, know-how and processes, computer programs and inventories, discoveries and improvements of any kind;
- C. Any written or tangible information stamped "confidential," "proprietary" or with a similar legend, and;

D. Any written or tangible information not marked with a confidentiality legend, or information disclosed orally to Newfold, that is treated as confidential when disclosed and later summarized sufficiently for identification purposes in a written memorandum marked "confidential" and delivered to Newfold within thirty days after the disclosure.

E. Newfold shall not be restricted in the use of any material which is publicly available, already in Newfold's possession or known to Newfold without restriction, or which is rightfully obtained by Newfold from sources other than Client.

F. Newfold's obligations regarding proprietary or confidential information extend to information belonging to customers and suppliers of Client about whom Newfold may have gained knowledge as a result of Newfold's Service to Client.

G. Newfold will not disclose to Client information or material that is a trade secret of any third party.

H. The provisions of this clause shall survive any termination of this Agreement.

I. Please see our [privacy notice](#) and non-disclosure policies for additional information.

J. Newfold may transfer information about Client if Newfold is acquired by or merged with another company, in which case Newfold will notify Client.

#### **4. Services**

Client understands and agrees to the following scopes of responsibility of Newfold according to each service which it provides:

##### **A. Website Transfer**

The Website Transfer includes the migration of Client data, specified as files, databases and email accounts, to the extent paid for by Client according to Newfold's current migration service pricing. This service is provided "AS-IS" and Newfold assumes no responsibility for the errors, omissions, or other problems related to the Website Transfer Service.

## **B. Data Storage**

This service provides as place of storage for Client's data for the stated period of time which the Client chooses upon signing up for this service. Newfold assumes no responsibility for any loss or corrupted data caused by or in connection with this service.

## **5. Duties of Client**

Client must supply to Newfold at the time of entering this Agreement information required to access and complete the Service in this Agreement. This includes but is not limited to, Internet Protocol (IP) address of server, completion of authorization statement, password and other information required to complete the Service. Client shall inform Newfold of any existing errors, previous conditions, configuration changes, non-standard software, special circumstances or other reasons why the server may not be of a standard configuration or otherwise interfere with Service to be performed by Newfold, failure to do so negates all responsibility of Newfold to complete the Service. In the event that a Client with an open project does not make contact, by phone or by email, with Newfold for a length of time equal to or greater than fourteen days, said Client's open project will be considered an abandoned project at that time and marked as completed by Newfold. In addition, the Client must make known to Newfold, in writing by email, any problems or issues related to the Service provided by Newfold within fourteen days of order completion if Newfold is to attempt to fix any errors, after which time the contract is complete, and no further work can or will be completed by Newfold. Client agrees by signing up for the Service that Newfold provides a service and not a product.

## **6. Billing Policy**

Client agrees to pay fees for any work or consultation which Newfold performs for them in accordance with Newfold's current pricing.

## **7. Refunds**

Website Transfer is a service, not a product. Full refunds are only available if there have been no services rendered to the Client.

## **8. Charge Backs**

Because the Website Transfer is a service and not a product, full refunds are not available once any kind of service has been rendered to Client. Newfold prefers working with customers rather than seeing a Charge Back. If Client will contact Newfold's billing department instead of issuing a charge back, then Newfold can work with Client to achieve a desired results or an appropriate compromise. Client agrees that a maximum amount of fifty percent of the fees charged to Client for the Service in question during a Charge Back can ever be reimbursed to the Client. Client also agrees that a seventy-five dollar (\$75) fee per charge back will be charged as a separate charge for any Charge Backs that Client issues.

## **9. Independent Contractor**

The parties acknowledge that they are independent of each other, and that they have no right or authority to assume or create any obligations of any kind, whether express or implied, on behalf of the other except as may be expressly provided in this Agreement. Newfold is not an employee or agent of Client. Nothing contained in this Agreement shall be construed to create a partnership, joint venture, agency or employment relationship between Newfold and Client. Newfold shall have no responsibility for any of Client's debts, liabilities or other obligations or for the intentional, reckless, negligent or unlawful acts or omissions of Client or Client's employees or agents. Client may not bind Newfold in any way whatsoever with respect to third parties. Newfold retains sole and absolute discretion, independence, control and judgment in the manner and means of doing business and performing services to Client and/or its clients. Client agrees to indemnify and hold Newfold harmless from and against any such payments or liabilities for which Client may become liable with respect to such matters.

## **10. Liability**

Client agrees that Newfold shall not be responsible or liable, directly or indirectly, for any damage or loss caused by, or alleged to be caused by, or in connection with the use of or reliance on any content, goods or Service available on or through Newfold's website or Service. Client understands and agrees that Newfold 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 Newfold has 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, Service, whether 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 of the Service; or (v) any other matter relating to the Service.

## **11. Governing Law**

These Terms shall be governed by the laws of the State of Florida without reference to conflict of law principles. The United Nations Convention on the International Sale of Goods shall not apply and is hereby expressly excluded. By subscribing to or using any of the Services of Newfold, Client agrees that all disputes, if any, involving the Service shall be subject exclusively to the jurisdiction of the State and Federal Courts within the State of Florida. Client hereby agrees that it is subject to the "in personam" jurisdiction of said courts for all purposes in connection with these Terms and/or in connection with any claim or dispute involving Newfold. Client hereby waives any and all objections that it has or might have, known or unknown, whether under Florida long-arm statute or otherwise, to the existence of said in personam jurisdiction. Client agrees that it has no right to and shall not file or otherwise bring a lawsuit against Newfold outside the State of Florida; and, that Client, if involved before a court in a lawsuit outside of the State of Florida, shall be deemed to support and to stipulate to a motion made by Newfold to dismiss said lawsuit with respect to Newfold.

## **12. Copyright, Trademarks, Service marks**

Newfold, the Newfold logo, other Newfold logos, product and service names are trademarks or service marks of Newfold. Newfold does not represent or endorse the accuracy or reliability of any of the information, content or advertisements (collectively, the "Materials") contained on, distributed through, or linked, downloaded or accessed from any of the Services, nor the quality of any products, information or other materials displayed, purchased, or obtained by the Client as a result of an advertisement or any other information or offer in or in connection with the Service (the "Products"). Client hereby acknowledges that any reliance upon any Materials shall be at the Client's sole risk. Newfold reserves the right, in its sole discretion and

without any obligation, to make improvements to, or correct any errors or omissions in any portion of the Service or the Materials.

Newfold reserves all rights to work product. Work product includes, but is not limited to, the programs and documentation, including all ideas, routines, object and source codes, specifications, flow charts and other materials, in whatever form, developed solely for Client. Client agrees that Newfold shall retain any and all rights Newfold may have in the work product.

The use of the Newfold name, logo, or other identifying features is prohibited. If Client or anyone else wishes to use the Newfold name or logo, they must have permission of Newfold.

### **13. License to Newfold**

Newfold claims no ownership interest in the content of Client's web site(s). By submitting content and data to Newfold, Client grants to Newfold, its successors and assigns, the worldwide, royalty-free, and nonexclusive license under Client's copyrights and other rights, if any, in all material and content displayed in Client's web site to use, distribute, display, reproduce, and create derivative works from such material in any and all media, in order to maintain such content on Newfold's servers during the term of these Terms. Client also authorizes the downloading and printing of such material, or any portion thereof, by end-users for their personal use. This license shall terminate upon Client's cancellation of the Services.

### **14. Warranty**

The Service provided by Newfold is on an "AS-IS" basis, and Newfold expressly disclaims any and all warranties, express or implied, including without limitation warranties of merchantability and fitness for a particular purpose, with respect to the Service or any materials and products. In no event shall Newfold be liable for any direct, indirect, incidental, punitive, or consequential damages of any kind whatsoever with respect to the Service, the materials and the products.

### **15. Scope of Agreement**

This TOS constitutes the entire agreement between the Client and Newfold and governs the Client's use of the Service, superseding any prior agreements

between Client and Newfold. Client also may be subject to additional terms and conditions that may apply when the Client uses affiliate services, third-party content or third-party software. The TOS and the relationship between Client and Newfold shall be governed by the laws of the State of Florida and the United States of America without regard to its conflict of law provisions. The failure of Newfold to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, Newfold and Client agree that the other provisions of the TOS remain in full force and effect. Client agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the TOS must be filed within one month after such claim or cause of action arose or be forever barred.

#### **16. Acceptance of Terms of Service**

If you (Client), for yourself or on behalf of one or more persons you are representing with respect to Newfold's Services, do not agree to any of the foregoing terms, you must, for yourself and on behalf of any such person(s), discontinue the sign-up process, and, if you have already signed up, discontinue your use of the Service. Beginning now, any continuation by you in using the Service constitutes for you and those represented by you an express affirmation and commitment to be (or to continue to be, as applicable) legally bound by and to comply with all of these terms.

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