

DEEP DIVE, LLC : TERMS OF SERVICE

Terms of Service agreements are considered valid and binding for 1 year from acceptance.

1. Identification of the Parties:

By signing up for Deep Dive, LLC services you, “the customer”, accept the terms and conditions outlined in this document. Any addresses, places of business, phone numbers, e-mail addresses, or information provided to Deep Dive, LLC as a point of contact will be assumed current and legitimate.

This document pertains to DEEP DIVE, LLC the "Designer" with a principal place of business in Louisiana.

2. Services which may be provided by Deep Dive, LLC:

Customer desires to retain Deep Dive, LLC as a service-provider which may include, but is not limited to :

1. Customized Web Sites within limitations of Deep Dive, LLC’s Splashdown Platform and License
2. Swimming Pool related web sales tools
3. Search Engine Optimization
4. Any inherent service related to 1-3 within the current list

3. Included Services and related fees:

- a) Customer will be responsible for payment directly to Deep Dive, LLC for any service package chosen to be provided. Premium packages may include websites, search engine optimization and reporting, design time, photography editing, video editing, and licenses to cloud software. Basic packages may include licenses to cloud software, design time, reporting, and photography editing.
- b) Additional services may be offered outside of Premium and Basic tiers of the Splashdown service. Additional design time, web update time exceeding allotted amounts due as per tier of service, or any other service exceeding stated inclusions may incur additional billable service hours. These service hours may be invoiced separately and in addition to monthly/annual license inclusions. These services may include, but are not limited to: web design time, graphic design, branding, promotions, general advertising consulting, Information Technology Consulting, and computer programming.

4. Payment:

Annual and monthly payments are offered by Deep Dive, LLC for license agreements. In order to begin work on setting up the customer to use the Splashdown license chosen, either the total prorated annual amount quoted for the remainder of the starting year, or the first month’s payment is due. *No Exceptions*

5. Late Fees:

Late payments by Customer shall be subject to late penalty fees of fifteen (15%) percent per business week from the due date until the full amount due is paid.

6. Changes in Project Scope for Premium Customers:

After the approved design phase, Customer shall have five (5) business days following live launch of the website to request, in writing, via email or emailed documentation (Word Document/PDF), revisions to the following, the said revisions to be included in the total contract price stated in the Design Plan:

- a) Typographical or grammatical errors which do not arise from the Content provided to Designer by Customer;

b) Deviations from a previously approved design

Any other revisions or changes to the Website, which are not included in a) and b), herein above, or which are requested by the Customer after five (5) business days following the launch of the Website, may incur additional fees and will be charged to the Customer. *Any design time and approval process preceding live launch is excluded from this condition.*

7. Delays:

Any delay or nonperformance of any provision of this Agreement caused by conditions beyond the reasonable control of the Designer shall not constitute a breach of this Agreement, provided that the Designer has taken reasonable measures to notify the Customer of the delay in writing. The Designer's time for performance shall be deemed to be extended for a period equal to the duration of the conditions beyond its control.

Conditions beyond Designer's control include, but are not limited to: natural disasters, acts of government after the date of the Agreement, power failure, internet service failure, fire, flood, acts of God, labor disputes, riots, acts of war and epidemics.

8. Ownership of Software and Licenses:

Deep Dive, LLC licenses the use of cloud software to the Customer as a sales and marketing tool to promote their pool dealership(s). No transfer of ownership of said software will take place upon payment by Customer for its use.

The Designer retains the right to be professionally credited for the creation of the Web Design Project.

9. Intellectual Property, Copyright and Trademark Infringement Claims and Domain Names:

Customer unconditionally guarantees that any and all elements of text, graphics, photos, designs, trademarks, or other artwork, information or content of any kind or nature whatsoever, in any format (the "Content"), furnished to Designer for inclusion in the Web Design Project are either owned by the Customer, or that the Customer has explicit permission from the owner of such Content to use any and all of such Content; and Customer agrees to indemnify and hold Designer, and its employees, agents, successors and assigns, harmless from and against any liability, including claims of any kind or nature whatsoever, or expenses, including attorney's fees and court costs, which may arise from Designer's use of the Content in the Web Design Project.

10. Domains and ICANN Regulations:

Deep Dive, LLC does not hold domain registrations on behalf of customers. Any customer signing up for premium packages will be required to own and control their own domain name (URL) through their chosen registrar. Deep Dive, LLC makes no guarantees on the use of any domain name (URL) or its availability. Deep Dive, LLC will not be held accountable for any connection issues, loss, or difficulties which arise from domain registration or DNS.

11. Term of Agreement:

This Agreement commences on the date it is executed and shall continue for one year from the acceptance/execution date.

12. Termination of Service and Agreement:

Customer has the right to terminate service with Deep Dive, LLC, assuming all due fees plus penalties are paid in full. Penalties for early termination of service will incur a fee of the equivalent of two month's license fees for the customer's chosen service tier.

13. Attorney's Fees:

If any legal action is necessary by Designer or Customer to enforce any provisions of this Agreement including, but not limited to, provisions regarding payments due to Designer, such party shall be entitled to reasonable attorney's fees, costs and expenses associated with the enforcement of said provisions.

14. Limitation of Liability and Waiver of Consequential Damages:

Notwithstanding any provision herein to the contrary, Designer shall not be liable to Customer for any indirect, punitive, incidental or consequential damages, including lost profits, lost use or lost data, sustained or incurred in connection with any act or omission related to performance under this Agreement, regardless of the form of action, whether in contract or tort or otherwise (including negligence, strict liability or otherwise) and whether or not such damages are foreseen or unforeseen.

Designer's total liability with respect to any claim of any kind against Designer arising under this Agreement, and whether arising in tort or contract, or otherwise, shall not exceed the price of the contractual period's total fees.

15. General Provisions:

a) Complete Agreement: This Agreement, together with all exhibits, appendices or other attachments, which are incorporated herein by reference, is the sole and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements and documentation relating to such subject matter.

b) Modifications to Agreement: Modifications and amendments to this Agreement, including any exhibit or appendix hereto, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

c) Applicable law: This Agreement will be governed by the laws of the State of Louisiana.

d) Severability and Waiver: If any of the provisions of this Agreement are declared to be invalid, such provisions shall be severed from this Agreement and the other provisions hereto shall remain in full force and effect. A waiver of a breach or default under this Agreement shall not be a waiver of any other or subsequent default. Failure or delay by either party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition.

e) Notices: All notices and other communications given in connection with this Agreement shall be in writing and shall be deemed given as follows:

- When delivered personally to the recipient's address as given to Deep Dive, LLC for billing purposes
- Three days after being deposited in the United States mails, postage prepaid to the recipient's address as appearing in the introductory paragraph to this Agreement, or
- When sent by fax, telex or email to the last fax, telex number or email address of the recipient known to the party giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first-class mail, or the recipient delivers a written confirmation of receipt.

Any party may change its address appearing in the introductory paragraph to this Agreement by giving notice of the change in accordance with this paragraph.

f) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.

g) Assignment: No assignment by Designer shall be performed without prior approval by the customer. The rights and obligations under this Agreement are freely assignable by either party. Customer shall retain the obligation to pay if Customer's assignee fails to pay as delineated by this Agreement.

16. Confidentiality:

Designer shall hold all customer information and data acquired in strict confidence unless Customer approves disclosure through its approval of web project launch. Disclosure of customer information or data to any third party required to complete web project will be approved prior to action by the Customer.

THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE ONLY WARRANTIES GRANTED BY DESIGNER. DESIGNER DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.