

Website Development Terms and Conditions

1 ACCEPTANCE OF TERMS AND CONDITIONS AS PART OF THE CUSTOMER

In accordance with the proposed Agreement for Website Development Services (the "Agreement") between you ("Customer"), and the company identified on the accompanying agreement ("COMPANY"), the following terms and conditions of service (the "Terms and Conditions") are expressly incorporated into and made a part of the Agreement. Defined terms herein shall have the meaning set forth in the Agreement or as set forth in these Terms and Conditions. In the event of a conflict between these Terms and Conditions, the terms of the Agreement shall control.

2 OWNERSHIP RIGHTS

a) Customer Materials and Customer's Rights. Customer represents and warrants that Customer has all rights and authority to the Customer Materials to grant the rights and approvals in this Agreement. Customer hereby grants to COMPANY a non-exclusive, non-terminable, royalty-free license to access, use, copy, modify, create derivative works and distribute all materials, information, data and other content provided to or otherwise made available to COMPANY by or on behalf of Customer in connection with the Services (as defined in the separate agreement), including any materials, information, data and other content that is incorporated in or derived from the processing of such information, data or content in connection with the Services (the "Customer Materials"), along with the right to transfer or sublicense such rights to contractors and subcontractors of COMPANY, in connection with the following activities to which Customer consents: (i) to perform the Services under this Agreement, (ii) to diagnose, monitor and optimize the performance of the Services, (iii) to compile and aggregate statistical data provided that (a) COMPANY agrees to maintain as confidential and not disclose to any third-party any Customer Materials identifying an individual consumer (except as otherwise permitted as necessary to provide the Services), and (b) COMPANY will use the Customer Materials solely to create analyses in aggregated or derivative form in a manner that does not permit identification of Customer, Customer employees, or individual consumers, and (iv) for any other access or use to which Customer expressly consents. Information or data obtained through Company's own systems independent of the Services shall not be included in the definition of Customer Materials.

b) COMPANY Ownership Rights. All rights, title and interest in, to and under the Services (and all portions thereof), wherever resident and on whatever media, shall remain the sole and exclusive property of COMPANY, including any and all intellectual property and other proprietary rights. All improvements, modifications, revisions or additions to or derivative works of the Services (or any portion thereof), whether developed singly or jointly by Customer, COMPANY or their employees or hired third parties, will be and remain the sole and exclusive property of COMPANY, including any and all intellectual property and other proprietary rights therein, regardless of whether Customer pays for such improvements, modifications, revisions, additions or derivative works. In addition, any aggregate non-identifiable data compiled or

collected by COMPANY shall be “Derivative Data” owned by COMPANY under this Agreement, and not subject to the limitations of subpart (a) above. “Derivative Data” shall also include all modifications, compilations, derivative works and results from processing (including analyses, usage statistics and patterns, datasets, databases, reports, recommendations and visual representations) created or developed from Customer Materials or on the basis of Customer’s use of the Services.

c) You acknowledge and agree that COMPANY may access, use, preserve and disclose your account(s) information, including, but not limited to, any information, data, text, software, music, sound, photographs, graphics, video, messages, tags, or other information or materials (collectively “Content”) you have posted or made available through the Service (together with any other information or data you provide to COMPANY, collectively referred to as the “User Content”) if required to do so by law or if in COMPANY’s reasonable determination, COMPANY believes that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce this Agreement; (c) respond to claims that any User Content violates the rights of third parties; (d) respond to your requests for customer service; (e) protect the rights, property or personal safety of COMPANY, its members and the public; or (f) otherwise provide you with access to and use of the Service.

By submitting User Content of any kind, you agree that you have the right to submit such User Content and that such User Content does not infringe or violate any privacy, property, or other rights of any party. You further agree that you will not upload any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or the Service and that you will be solely responsible for all User Content that you submit to or post within the Service, including the consequences of posting or publishing such User Content. It is strictly prohibited to upload User Content of any kind that contains expressions of hate, abuse, offensive images or conduct, obscenity, pornography, or any material that could give rise to any civil or criminal liability under applicable law or regulations or that otherwise may be in conflict with this Agreement.

Due to the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

3 LIMITATIONS AND RESTRICTIONS

(a) Customer Modifications. Customer shall not use, modify, revise, create derivative works of, translate or enhance the Services (or any portion thereof) except as expressly permitted in writing by COMPANY at COMPANY’s discretion. Customer shall not copy the Services (or any portion thereof). Customer shall not sublicense, rent, assign, transfer, disclose, publish, translate, release, transmit, re-transmit or otherwise make available the Services (or any portion thereof) in any form, to any person or entity, without the prior written consent of COMPANY.

(b) Customer shall not disassemble, decompile or in any way reverse engineer the Services (or any portion thereof). Customer shall: (i) ensure that all of its users (“Customer Users”) comply with all of the terms of the Agreement and the Terms and Conditions hereof; (ii) not permit any person or entity, other than the Customer Users, to use or gain access to the Services (or any portion thereof) and shall provide reasonable security devices and procedures to protect against unauthorized usage of or access thereto; (iii) use the Services (and all portions thereof) solely for its internal business use and not in the operation of a service bureau or for the benefit of any other person or entity; (iv) not use the Services (or any portion thereof) in any manner, or in connection with any Customer Materials that (A) infringes upon or violates any patent, copyright, trade secret, trademark, or other intellectual property right of any third party, (B) constitutes defamation, libel, invasion of privacy or violation of any right of publicity or other third party right or is threatening, harassing or malicious, or (C) violates any applicable international, federal, state or local law, rule, legislation, regulation or ordinance; (v) not use the Services (or any portion thereof) for distributing chain letters, junk mail, “spamming” solicitations (commercial or otherwise) or bulk communications of any kind; (vi) not use the Services (or any portion thereof) for any illegal, obscene, offensive, harassing or immoral purpose, or to transmit illegal, obscene, offensive, harassing or immoral communications; and (vii) ensure that all Customer Materials are free from corrupted files, viruses, worms, and any other malicious code. Customer shall be liable for damage of any kind to the Services to the extent such damage was the result of Customer’s violation of this Section 3. COMPANY may immediately terminate the Services in the event Customer breaches any provision of this Section 3.

(c) Security. Customer agrees to secure and protect the Services (and all portions thereof) in a manner consistent with the maintenance of COMPANY’s rights therein and to take appropriate action by instruction or agreement with Customer Users to satisfy its obligations hereunder. Customer shall assist COMPANY in identifying and preventing any unauthorized access, use, copying or disclosure of the Services (or any portion thereof). Without limiting the foregoing, Customer shall advise COMPANY immediately in the event Customer learns or has reason to believe that any person to whom Customer has given access to the Services (or any portion thereof) has violated or intends to violate the confidentiality of the Services or the proprietary rights of COMPANY, and Customer will, at Customer’s expense, cooperate with COMPANY in seeking injunctive or other equitable relief in the name of Customer or COMPANY against any such person.

(d) Any unauthorized modification of Company’s website themes (“Theme”) shall be a material breach of this Agreement.

(e) Except as specified in this Agreement, Customer is prohibited from:

- (i) Distributing, transferring possession, integrating into other programs or software, copying, lending, renting, leasing, transmitting or otherwise making copies of or use of the Theme or the database to any third party;

- (ii) Modifying, adapting, or creating derivative works of the Theme or the database.
- (iii) Disabling any password or other protective device incorporated into the Theme.
- (iv) Attempting in any way to obliterate or destroy the copyright notices, trademarks, service marks of COMPANY in or on the Theme, or any watermarks.
- (v) Using the Theme or database in any way past the expiration of the Term.

4 CHANGES

COMPANY reserves the right, in its sole discretion, to make any changes to the Services from time to time that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of COMPANY's services to the Customer and/or any Customer Users, (ii) the competitive strength of or market for COMPANY's services, or (iii) the Services' cost efficiency or performance; and/or (b) to comply with applicable law. In addition, upon Customer's request, COMPANY may (in COMPANY's discretion) add or delete some portion of the Services, without requiring a separately signed agreement. COMPANY reserves the right to modify this Agreement to correct errors and omissions, or substitute Services with reasonably equivalent Services (provided that the change will have no effect on the total fees under the Agreement).

5 SUSPENSION OR TERMINATION OF SERVICES

COMPANY may, directly or indirectly, by any lawful means, suspend, terminate or otherwise deny Customer's, any Customer User's, or any other person's access to or use of all or any part of the Services or COMPANY Materials, without incurring any resulting obligation or liability, if: (a) COMPANY receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires COMPANY to do so; or (b) COMPANY believes, in its sole discretion, that: (i) Customer or any Customer User has failed to comply with, any material term of these Terms and Conditions, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under these Terms and Conditions or in any manner that does not comply with any material instruction or requirement; (ii) Customer or any Customer User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the Services; or (iii) these Terms and Conditions expire or are terminated. This Section 5 does not limit any of COMPANY's other rights or remedies, whether at law, in equity or under these Terms and Conditions.

6 CUSTOMER OBLIGATIONS

(a) Customer Systems and Cooperation. Customer shall, at all times during the Term: (i) set up, maintain and operate in good repair all Customer information technology infrastructure, including computers, software, hardware and networks (collectively, "Customer Systems"), on or through which any Services are accessed or used; (ii) provide COMPANY personnel with such

access to Customer's Systems as is necessary for COMPANY to perform the Services; and (iii) provide all cooperation and assistance as COMPANY may reasonably request to enable COMPANY to exercise its rights and perform its obligations under and in connection with the Agreement and these Terms and Conditions.

(b) Non-Solicitation. During the Term and for two (2) years after, Customer shall not, and shall not assist any other person to, directly or indirectly recruit or solicit for employment or engagement as an independent contractor any person then or within the prior six (6) months employed or engaged by COMPANY or any of its affiliates. In the event of a violation of this Section 6(b), COMPANY will be entitled to liquidated damages equal to the aggregate compensation paid by COMPANY to the applicable employee or contractor during the prior six (6) months.

7 CUSTOMER CONTROL AND RESPONSIBILITY

Customer has and will retain sole responsibility for: (a) all Customer Materials, including the content and use of such Customer Materials; (b) all information, instructions and materials provided by or on behalf of Customer or any Customer User in connection with the Services; (c) all Customer Systems; (d) the security and use of Customer's and each Customer User's user name(s), identification number(s), password(s), license(s) and/or security key(s) and other access credentials ("Access Credentials"); and (e) all access to and use of the Services directly or indirectly by or through the Customer Systems or its or its Customer Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

Consult is responsible for consulting with Customer's own legal, tax, accounting or other advisor for guidance on document and data retention policies applicable to Customer's records. COMPANY does not provide Customer with guidance on document and data retention policies applicable to Customer's records or the Customer Materials. COMPANY does not provide you with advice regarding the sufficiency of your document and data retention policies. Customer is solely responsible for maintaining any back-up of Customer Materials or other documents or data Customer may provide to COMPANY in connection with the Services.

Customer further agrees not to use the Services to collect, manage, or process Sensitive Information, except with permission and to the limited extent required for the provision of services to Customer's customers. "Sensitive Information" includes: credit or debit card numbers, personal financial account information, Social Security numbers, passport numbers, driver's license numbers or similar personal identifiers, racial or ethnic origin, physical or mental health condition or information, or other employment, financial or health information. Customer further agrees that prior to collecting, managing or processing any information regarding children under the age of 16, Customer must obtain the consent of the holder of parental responsibility over the child. Customer represents and warrants that for Sensitive Information that Customer discloses to COMPANY, or that is included in the Customer

Materials, Customer will comply with all laws, regulations, rules, Federal Trade Commission guidelines, and other publicly known industry best practices regarding the collection, disclosure, and use of any Sensitive Information, which may require Customer to provide customers and consumers with privacy notices and choices (for example, opt-outs regarding certain data sharing); and, that Customer will obtain all required consents from customers and consumers, and that Customer will also disclose to COMPANY any required consents related to COMPANY's use of that Sensitive Information under this Agreement.

FTC Safeguards Rule. The Federal Trade Commission ("FTC") Standards for Safeguarding Customer Information (16 CFR Part 314)(the "Safeguards Rule") applies to parties considered to be financial institutions within the FTC's jurisdiction under the Gramm-Leach-Bliley ("GLB") Act. The Safeguards Rule, effective May 23, 2003, requires those parties to secure records and information from and about customers.

This section applies to the extent Customer is subject to the Safeguards Rule, Customer shares with COMPANY "customer Information" (as defined in the Safeguards Rule), and in circumstances in which COMPANY is a "Service-Provider" (as defined in the Safeguards Rule). COMPANY will implement and maintain safeguards appropriate to protect the security, confidentiality, and integrity of your Customer Information (as defined in the Safeguards Rule). It is your responsibility to: (i) disclose to us any relevant risks you identify regarding your Customer Information; and (ii) identify the employee(s) who coordinate your information security program.

Customer is solely responsible for Customer's compliance obligations under the Safeguards Rule. COMPANY's provision of products and services to Customer does not constitute and shall not be deemed to be a guarantee that Customer's business is in compliance with any statute or regulation. COMPANY's review or approval of any of Customer's systems, applications, processes, forms, or procedures does not constitute and shall not constitute the assumption by COMPANY of any responsibility or liability for compliance by Customer with any statute or regulation.

Customer agrees that Customer and third parties acting on Customer's behalf have no right or authority to access or audit COMPANY's systems, applications, processes, procedures or practices, except to the extent specifically authorized by COMPANY.

If Customer believes COMPANY's efforts to safeguard Customer Information affects Customer in a materially adverse manner and Customer promptly notifies COMPANY in writing, stating the basis of your belief, COMPANY will work with Customer in good faith to resolve the issue. If after sixty (60) days we are unable to resolve the issue, then, at COMPANY's option, we will either permit you to discontinue the affected Services without liability, or you will submit to binding arbitration as described below. Customer shall pay all amounts incurred and remain otherwise fully obligated for any Services up through the effective date of such discontinuance or arbitration decision. THIS IS YOUR SOLE AND EXCLUSIVE REMEDY AND COMPANY'S ONLY OBLIGATION UNDER THIS SECTION.

8 THIRD PARTY PROVIDERS

COMPANY utilizes a number of third-party providers to provide the Services. Such third-party providers include, but are not limited to, email service providers, SMS service providers, hosting providers and content providers. Customer agrees to the use of third-party providers in connection with providing the Services.

9 CONSUMER COMMUNICATIONS

The federal government and many states and local jurisdictions have enacted regulations limiting commercial telephone, text, email and fax communications, including laws regarding opt-in and opt-out required for commercial communications. Customer represents and warrants that all email addresses used in connection with the Services have been and will be properly obtained and Customer shall follow all provisions of the CAN-SPAM Act (USA), the Telephone Consumer Protection Act (USA), or all Canadian Radio-television and Telecommunications Commission (CRTC) regulations (Canada) and any other applicable laws regarding consumer communications in any applicable jurisdiction. To the extent that COMPANY may perform Services which involve contacting consumers on your behalf, Customer agrees it is Customer's responsibility to obtain all necessary consents and provide COMPANY with all consumer preference information (such as an opt-out) required to ensure that COMPANY does not contact consumers in violation of such regulations.

If COMPANY automates text message communications as part of the Services, Customer is responsible for ensuring that the recipients of those communications have provided prior express written consent to receive them. The prior express written consent must identify that Customer may be sending text messages related to the Services using automated technology and that the Customer User affirmatively agrees to receive such messages. The prior express consent must include the Customer User's written or electronic acceptance. Specifically, by entering a cell phone number into the Customer's Systems in connection with the Services and not opting such cell phone out of the COMPANY text message feature, Customer is directing COMPANY to automatically send text message reminders and other communications to such cell phone and certifying that the user of such cell phone consents to the receipt of those messages. Customer is responsible for all liability for any failure to receive consent or failure to opt users out of the text message feature. Additionally, Customer may not attempt to spoof sender domains, send spam or other offending text message practices. COMPANY makes no expressed or implied warranty of individual message receipt. COMPANY shall not be liable for any issues that arise associated with the content that Customer provides or unforeseen liabilities of it being delivered. Customer shall be solely liable to comply with applicable laws and regulations within Customer's jurisdiction in connection with telecommunication (e.g., email and text) messages that you send to the Customer Users.

10 INTEREST; PAST DUE PAYMENTS

Interest charges of one and a half percent (1.50%) per month (or the highest rate permissible

under applicable law, if less) will accrue daily on all amounts not received by COMPANY when due. In addition, COMPANY shall be entitled to block Customer's access to Services (with or without terminating this Agreement or affecting Customer's obligation to make payments under this Agreement) if Customer is more than thirty (30) days delinquent on any payments under this Agreement or any other agreement with COMPANY. The obligation to pay fees and all other amounts due hereunder is an independent, unconditional covenant, and under no circumstances shall Customer have any right to offset its payments to COMPANY. If any amount owed by Customer under this Agreement or any other agreement with COMPANY is sixty (60) or more days overdue, COMPANY may, without limiting COMPANY's other rights and remedies, accelerate Customer's unpaid fee obligations under this and such other agreements in accordance with Section 15 below. Invoices may be sent via email. If for any reason we fail to furnish you with an invoice, you are still obligated to pay in a timely manner.

11 TAXES

Unless otherwise stated, the COMPANY fees set forth in the Agreement do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction, plus interest, penalty and additions thereon (collectively, "Taxes"). Customer is responsible for paying all Taxes applicable to Customer's use of the Services. If COMPANY has the legal obligation to pay or collect Taxes (or an amount in respect of Taxes) for which Customer is responsible under this Section 11, the appropriate amount shall be invoiced to and paid by Customer promptly by Customer (and in no event more than 30 days following receipt of an undisputed invoice), unless Customer provides COMPANY with a valid tax exemption certificate authorized by the appropriate taxing authority. COMPANY is responsible solely for taxes based on its income.

12 INDEMNIFICATION

(a) COMPANY will indemnify, defend, and hold harmless Customer and its directors, officers, managers and employees with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent arising out of or related to any third party claim that the Services infringe any copyright, patent, trademark, trade secret or other intellectual property right of any third party (an "Infringement Claim"). COMPANY shall have no obligation of indemnity if any Infringement Claim is based on or related to (a) any use of the Services in violation of the Agreement, these Terms and Conditions or the Terms of Use, (b) any use of the Services in conjunction or combination with any Customer Systems or content, data, equipment, software, documents, materials or intellectual property not provided by COMPANY, or (c) any information, data and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or Customer Users.

(b) Customer shall indemnify, defend, and hold harmless COMPANY and its affiliates, directors,

officers members, managers and employees with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent arising out of or related (a) to Customer's breach of any of Customer's representations, warranties, obligations, covenants or agreements in the Agreement, these Terms and Conditions and/or the Terms of Use, or (b) any Infringement Claim caused by Customer or its affiliates or any of their respective directors, officers, members, managers employees, agents or representatives, or (c) any act or omission by you in connection with collecting, using or disclosing Customer Materials or Sensitive Information, or Customer's failure to obtain necessary consents and permissions from consumers in compliance with Customer's obligations under this Agreement..

(c) If any third party claim is commenced against a Party entitled to indemnification hereunder (the "Indemnified Party"), notice thereof shall be given by the Indemnified Party to the other Party (the "Indemnifying Party") as promptly as practicable. Any delay by the Indemnified Party in providing such notice shall not limit the Indemnifying Party's obligations pursuant to these Terms and Conditions except to the extent of any liability caused by such delay. If, after such notice, the Indemnifying Party acknowledges that these Terms and Conditions applies with respect to such claim, then the Indemnifying Party shall be entitled, if it so elects, to immediately take control of the defense and investigation of such claim and to employ and engage attorneys acceptable to the Indemnified Party to handle and defend the same, at the Indemnifying Party's cost. The Indemnified Party shall cooperate, at the cost of the Indemnifying Party, with the Indemnifying Party and its attorneys in the investigation, trial and defense of such claim; provided, however, that the Indemnified Party may, participate in any investigation, trial and defense at its own cost. No settlement of a claim that involves a remedy other than the payment of money solely by the Indemnifying Party shall be entered into without the consent of the Indemnified Party. After notice by the Indemnifying Party to the Indemnified Party of its election to assume full control of the defense of any such claim, the Indemnifying Party shall not be liable to the Indemnified Party for any legal fees and expenses incurred thereafter by such Indemnified Party.

13 MUTUAL CONFIDENTIALITY

(a) Confidential Information. The term "Confidential Information" means the Agreement and all proprietary information, documents, and electronic data that either Party obtains or has access to (in any manner) from the other Party. Confidential Information does not include any information, documents, or electronic data to the extent that such information, documents or electronic data: (a) have become public information without any breach of the Agreement or these Terms and Conditions or violation of law; (b) were already legally in a Party's possession prior to the time that the other Party disclosed such information to such Party; (c) a Party obtained from a third party (other than one acting on behalf of the other Party in disclosing such information) and had no reason to believe that such third party was unlawfully in possession of the information or that such third party was in violation of any contractual, legal, or fiduciary obligation to the other Party by disclosing such information; (d) is or was independently developed by a Party without the benefit or use of any Confidential Information

received hereunder; or (e) is required to be disclosed by any law, order of a governmental authority or court of applicable jurisdiction; provided that if a Party is required to disclose such information it shall, as soon as reasonably possible after discovering the information is required to be disclosed, notify the other Party and cooperate in any efforts the other Party may thereafter choose to pursue to obtain an appropriate protective order or otherwise obtain confidential treatment of such Confidential Information.

(b) Mutual Confidentiality Obligations. Each Party shall hold all of the other Party's Confidential Information in strict confidence and use at least the same degree of care as it uses with respect to its own confidential information to prevent the disclosure of such Confidential Information. Neither Party shall disclose the other Party's Confidential Information to any person or entity except to persons who have a need to know such Confidential Information in furtherance of such Party's performance of its obligations pursuant to the Agreement or these Terms and Conditions, including the recipient Party's directors, officers, employees, affiliates, representatives, financial advisors, attorneys, accountants, agents or contractors who have such a need to know such Confidential Information (collectively, "Representatives"). Further, neither Party shall provide Confidential Information to any of its Representatives until such Representative agrees to abide by the terms of this Section 13. Each Party shall, at its own expense, take all reasonably available steps necessary to prevent the unauthorized use or disclosure of any of the other Party's Confidential Information by any of its Representatives or by any other person or entity who gains access to such Confidential Information from the recipient Party in violation of the terms of the Agreement or these Terms and Conditions. At the written request of a Party, the other Party shall promptly return all or any portions of the requesting Party's Confidential Information to the requesting Party and destroy all copies of such Confidential Information in the other Party's possession or control.

14 RIGHTS UPON TERMINATION

Upon the expiration or any termination of the Agreement and these Terms and Conditions, Customer shall promptly return to COMPANY, or with COMPANY's prior written consent destroy, any information from the Services in Customer's possession or control. If the Agreement is terminated prior to the expiration of the Initial Term or the applicable Renewal Term, Customer shall pay to COMPANY within thirty (30) days after the effective date of such termination an amount equal to the total remaining fees owed in accordance with the Agreement. Upon termination of the Agreement, and subject to payment of all fees due under this Agreement, Company agrees to provide, in an industry standard format, an export of Customer's data in accordance with Company's then-current data export policy at then current standard fees.

15 BREACH OR DEFAULT; FORCE MAJEURE EVENTS

a. Termination for Breach: Either party may terminate this Agreement in the event of a

material breach of this Agreement by the other party, if such breach remains uncured thirty (30) days after receipt of written notice thereof from the non-breaching party; provided, however, COMPANY, notwithstanding such cure period, may require Customer to cease and discontinue use of the Services during the period of such material breach by Customer. No such termination shall relieve Customer's obligation to pay fees and miscellaneous charges accrued up to the effective date of the termination. Furthermore, in the event of early termination of this Agreement (other than due to material uncured breach by COMPANY) prior to the expiration date of the Initial Term or any renewal Term, Customer shall be obligated to pay to COMPANY 100% of the fees that COMPANY would have received if this Agreement had remained in effect until its scheduled expiration date in accordance with Section 14 above. Customer agrees that (a) a breach by Customer under this Agreement is a breach under all other agreements between Customer and COMPANY, and a breach by Customer under any other agreement between COMPANY and Customer is a breach of this Agreement, and (b) all other agreements between Customer and COMPANY are amended to include this provision. In the event of default by Customer, COMPANY shall have the option, without further notice to Customer or further demand for performance, to:

a. Website Posting. Post on Customer's website that the account has been deactivated due to a breach of agreement including, but not limited to, non-payment.

b. Removal. Remove Customer's website from the server.

c. Individual Obligation. Make demand and/or institute suit against Customer to collect each monthly or other obligation or other sum as it becomes due or enforce any other obligations under this Agreement; and/or

d. Acceleration. At the option of COMPANY, with or without terminating this Agreement, accelerate all future payments due under this Agreement and Customer shall be liable for the balance of the payments until the expiration of the then existing term of this Agreement which shall then become immediately due; and/or

e. Injunction. In addition to any remedies at law or in equity, COMPANY shall have a right to injunctive relief to enjoin any violation of the terms of this agreement; and/or

f. Terminate. Terminate this Agreement and make claim or sue Customer for damages for breach of the past and/or future obligations of Customer under this Agreement. The enumeration of the foregoing remedies does not exclude any other remedy set forth herein or expressed or implied in law. All remedies are cumulative and shall be in addition to every other remedy now or hereafter existing by contract or at law or in equity.

b. Force Majeure Event. In no event will COMPANY be liable or responsible to Customer, or be deemed to have defaulted under or breached these Terms and Conditions, the Terms of Use or the Agreement, for any failure or delay in fulfilling or performing any term of these Terms and

Conditions, when and to the extent such failure or delay is caused by any circumstances beyond COMPANY's reasonable control (a "Force Majeure Event"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law, rules, regulations or orders, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation.

16 DISCLAIMER

NOTWITHSTANDING ANYTHING TO THE CONTRARY, COMPANY AND ITS SUPPLIERS DO NOT REPRESENT OR WARRANT, AND SPECIFICALLY DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, WITH RESPECT TO ANY SUBJECT MATTER OF THE AGREEMENT OR THESE TERMS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE AND TITLE, WITHOUT LIMITING THE IMMEDIATELY PRECEDING SENTENCE, COMPANY DOES NOT REPRESENT OR WARRANT THAT THE SERVICES OR ANY PORTION THEREOF WILL MEET CUSTOMER'S REQUIREMENTS OR THAT CUSTOMER'S USE THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE.

17 LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, (A) COMPANY'S TOTAL AGGREGATE LIABILITY ARISING UNDER OR RELATING TO THE AGREEMENT AND THE SERVICES SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE FEES PAID TO COMPANY DURING THE MONTH IN WHICH THE EVENT GIVING RISE TO THE OCCURRENCE OCCURRED, AND (B) COMPANY SHALL NOT BE LIABLE FOR, NOR SHALL SUCH MEASURE OF DIRECT DAMAGES INCLUDE, ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOSS OF REVENUE, INCOME, PROFITS OR SAVINGS) ARISING UNDER OR RELATING TO THE AGREEMENT OR SERVICES. THE LIMITATIONS ON LIABILITY SET FORTH IN THIS SECTION ARE MADE REGARDLESS OF (A) THE FORM OF THE ACTION OR CLAIM OR THE THEORY OF RECOVERY, (B) WHETHER COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) WHETHER SUCH DAMAGES MAY BE FORESEEABLE.

18 COPYRIGHT POLICY

COMPANY has in place certain legally mandated procedures pursuant to the Digital Millennium Copyright Act ("DMCA") regarding allegations of copyright infringement occurring in the

Service. COMPANY reserves the right in its sole discretion to immediately suspend and/or terminate access to the Service by any user who is alleged to have infringed on the intellectual property rights of COMPANY or of a third party, or otherwise violated any intellectual property laws or regulations. COMPANY's policy is to investigate any allegations of copyright infringement brought to its attention. If you have evidence, know, or have a good faith belief that your rights or the rights of a third party have been violated and you want COMPANY to delete, edit, or disable the material in question, you must provide COMPANY with all of the following information: (a) a physical or electronic signature of a person authorized to act on behalf of the owner of the exclusive right that is allegedly infringed; (b) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works; (c) identification of the material that is claimed to be infringed or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit COMPANY to locate the material; (d) information reasonably sufficient to permit COMPANY to contact you, such as an address, telephone number, and if available, an electronic mail address at which you may be contacted; (e) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (f) a statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. For this notification to be effective, you must provide it to COMPANY's agent for copyright issues relating to the Service at the following:

600 University Park Place #500
Birmingham, AL 35209

Attn: Daxko Office of Privacy
legal@daxko.com
Or call: (847) 597-1740

If you believe that any User Content that you submitted through the Service and was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use such User Content, you may send a counter-notice containing the following information to COMPANY's agent for copyright issues: (a) your physical or electronic signature; (b) identification of the User Content that has been removed or to which access has been disabled and the location at which the User Content appeared before it was removed or disabled; (c) a statement that you have a good faith belief that the User Content was removed or disabled as a result of mistake or misidentification; and (d) your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the appropriate federal court in Birmingham, Alabama, and a statement that you will accept service of process from the person who provided notification of the alleged infringement. If a counter-notice is received by COMPANY's agent for copyright issues, we may send a copy of the counter-notice to the original complaining party informing that person that we may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court

order against the content provider, user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at COMPANY's sole discretion.

19 GENERAL PROVISIONS

(a) Equitable Remedies. Customer acknowledges that Customer's breach or threatened breach of Section 2, Section 6(b) or Section 13 of these Terms and Conditions will immediately give rise to continuing irreparable injury to COMPANY inadequately compensable in damages at law, and COMPANY is entitled to seek and obtain immediate injunctive and other equitable relief against Customer's breach or threatened breach of Section 2, Section 6(b) or Section 13 without the necessity of posting bond and in addition to any other rights and remedies available to COMPANY.

(b) Rights and Remedies Cumulative. The rights and remedies provided by the Agreement and these Terms and Conditions are cumulative, and the use of any one right or remedy by either Party will not preclude or waive its right to use any or all other remedies. Such rights and remedies are given in addition to any other rights or remedies the Parties may have at law or in equity.

(c) Changes to Terms and Conditions. COMPANY reserves the right to change these Terms and Conditions and the Terms of Use from time to time in its sole and absolute discretion. Any such changes shall not affect the rights of Customer regarding the Services provided prior to the time of the change or the amounts charged for such Services as set forth in the Agreement. COMPANY may revise and update these Terms and Conditions from time to time in COMPANY's sole and absolute discretion. Customer may provide email notice that the Terms and Conditions have been updated. All changes are effective immediately when COMPANY posts them and apply to all access to and use of the Services thereafter.

(d) No Third Party Beneficiaries. Except as expressly provided, the Agreement and these Terms and Conditions are for the sole benefit of the Parties and nothing herein expressed or implied will give or be construed to give to any person, other than the Parties, any legal or equitable rights hereunder.

(e) Setoff. All amounts payable to COMPANY under the Agreement shall be paid by Customer to COMPANY in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable law).

(f) Surviving Terms. The provisions set forth in the following sections, and any other right or obligation of the parties in these Terms and Conditions that, by its nature, should survive termination or expiration of these Terms and Conditions or the Agreement, will survive any expiration or termination of these Terms and Conditions or the Agreement, as applicable:

Section 2, Section 3, Section 6(b), Section 13, and Section 18.

(g) Publicity. COMPANY shall have the right to use the logos or trademarks of Customer or of Customer's parent or affiliates in connection with any promotion of its business. COMPANY may list Customer as a customer on COMPANY's website, in printed material, in oral presentations, and in other media.

(h) Governing Law; Arbitration. This Agreement and the relationship between Customer and COMPANY shall be governed by the laws of the State of Alabama, without regard to its conflict of law provisions. Any claim or dispute arising out of this Agreement, unless otherwise excluded below, shall be determined exclusively by binding arbitration to take place in Jefferson County in the State of Alabama. Such arbitration shall be conducted in accordance with the American Arbitration Association rules and before an American Arbitration Association certified Arbitrator. The arbitrator shall be mutually agreed upon by the parties. In the event that a single arbitrator cannot be agreed upon, you shall select an arbitrator, and COMPANY shall select an arbitrator, and these two arbitrators will select a third arbitrator. In the event that the two arbitrators selected cannot agree on a third arbitrator, the third arbitrator will be selected by a judge presiding over the circuit court in Jefferson County, Alabama. All arbitrators shall be attorneys and shall swear an oath of neutrality. The parties shall each be responsible for initial payment of fifty-percent (50%) of any arbitration fees but the losing party to the arbitration shall be responsible to reimburse the prevailing party's costs, expenses and arbitration fees, including, without limitation, reasonable attorneys' fees.

The Federal Arbitration Act ("FAA"), not state law, controls and applies to the arbitration of any non-excluded dispute between the parties, and shall govern all aspects of the arbitration. The outcome of any arbitration, including the award of any damages, shall be confidential. The arbitrator will not have authority to award any punitive or exemplary damages, or any penalties, relating to any dispute arbitrated or litigated. The scope of the depositions, requests for production and the extent of the parties' obligations to respond will be governed by the Federal Rules of Civil Procedure.

Notwithstanding the foregoing, the following claims and disputes ("Excluded Disputes") are not subject to binding arbitration: (1) any non-equitable claims or disputes in which COMPANY is seeking to collect past-due amounts under the Agreement with an amount in controversy less than \$75,000 and (2) any claim for a temporary restraining order, injunction, specific performance and/or any other equitable relief. The parties specifically agree that non-equitable claims or disputes described in subpart (1) above shall be resolved exclusively in the court of appropriate jurisdiction in Jefferson County, Alabama and shall be governed by the rules of procedure and evidence for civil cases for the State of Alabama without reference to the choice of law principles of any other state. The parties specifically waive the right to bring such non-equitable claims or suits in any other jurisdiction and/or venue. The parties also agree that the damages awarded, if any, in any litigation conducted pursuant to this Agreement shall be determined in accordance with the state law of Alabama.

The Customer further acknowledges that a breach or threatened breach of the Agreement by the Customer or its representatives may cause irreparable harm to COMPANY for which monetary damages would not be an adequate remedy. As such, Customer agrees that in the event of a breach or a threatened breach by Customer or its representatives, COMPANY shall, in addition to any and all other rights and remedies available at law (which are not waived by the exercise of any rights hereunder), be entitled to seek a restraining order, injunction, specific performance and/or any other equitable relief available from a court of competent jurisdiction, and the parties hereby waive any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with such claim.

The prevailing party in any Excluded Dispute shall be entitled to be reimbursed for its costs and expenses, including, without limitation, reasonable attorneys' fees.

(i) Search Engine Marketing. Customers receiving SEM services will have access to a COMPANY SEM/PPC specialist that will setup local directory listings within a third-party SEM and manage those listings. The specialist will also setup and manage paid advertising through Google Adwords Express for client campaigns, provided that any Google Adwords fees shall be paid directly by Customer through the Customer's merchant account. Customer agrees to spend a minimum of \$25.00 per month on paid advertising (such as pay per click) through Google, provided that for maximum effectiveness, COMPANY may recommend additional paid advertising through Google based on Customer location, keyword competition, and other relevant factors. COMPANY is not responsible for the Customer overwriting SEM work to the Customer's site (e.g., Customer/webmaster uploading over work already provided/optimized). The Customer will be charged an additional fee for re-constructing content, at then-standard hourly rates. Customer acknowledges that COMPANY has no control over the policies of search engines with respect to the type of sites and/or content that they accept now or in the future, and that the Customer's website may be excluded from any directory or search engine at any time at the sole discretion of the search engine or directory.

(i). Out of Scope Customizations. Any website customizations specially requested by Customer shall be subject to a separate statement of work mutually agreed upon by the parties and shall be billed on an hourly basis at COMPANY's then-standard rates.

(k) Delivery of Website after Buy Out. Upon buy out of website, COMPANY will deliver applicable website files in a single zipped format. This will include the database, WordPress theme, WordPress core files, and plugins that are not exclusively owned by COMPANY, and which are the subject of third-party licenses, which may have ongoing license terms applicable to Customer's use of the delivered materials. Client is responsible for installation and transfer of website to new host. Theme and Plugin licenses that were purchased by COMPANY are not included and will not be provided to the client. Following buy out of a website and delivery of the applicable website files, COMPANY shall have no further obligations (including, without limitation, hosting, service or support obligations) under this Agreement with respect to such website.

(l) Expanded License upon Buy Out. Upon buy out of a website, and subject to COMPANY's receipt of full payment for such buy out, COMPANY grants you a perpetual, fully-paid up license to use, modify, create derivative works of, distribute, and publicly display the applicable website solely for your internal business purposes of marketing and providing information via the website regarding Customer's business, subject to the terms and restrictions of any third-party licenses applicable to third-party material which may be included in the website delivered.

(m) Due Date; Auto Debit Authorization. You agree to pay COMPANY in advance the applicable fees for the Service provided by COMPANY under this Agreement. Unless other arrangements are pre-approved in writing by COMPANY, we will bill your account for all fees for the Service due each month, and you hereby authorize COMPANY to charge your account for all such fees. Invoices may be sent via email. If for any reason we fail to furnish you with an invoice, you are still obligated to pay in a timely manner. You will provide accurate and complete billing information including legal name, address, telephone number, and billing account (either ACH or payment card) information. If such information is false or fraudulent, we reserve the right to terminate the Service and this Agreement, in addition to seeking any other legal remedies. COMPANY is not responsible for any charges or expenses (e.g., for overdrawn accounts, exceeding credit card limits, rejected payments, etc.) resulting from charges billed by COMPANY. You agree to reimburse COMPANY for any penalties, fees, overages or charges incurred by COMPANY as a result of a rejected charge or payment. Payments made to COMPANY under this Agreement are non-refundable. Any charge disputed by you must be disputed in writing within fifteen days after the billing date, or such charge shall be deemed valid. All fees will be paid in U.S. dollars and are due as set forth on our Website or within our Service. All fees are exclusive of taxes, levies, or duties imposed by taxing authorities, and you will be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on COMPANY's income (and customer shall indemnify, defend and hold COMPANY harmless from any liability arising from Customer's tax responsibilities). Interest charges of one and a half percent (1.50%) per month (or the highest rate permissible under applicable law, if less) will accrue daily on all amounts not received by COMPANY when due. In addition, COMPANY shall be entitled to block your access to the Services (with or without terminating this Agreement or affecting your obligation to make payments under this Agreement) if you are more than thirty (30) days delinquent on any payments under this Agreement or any other agreement with COMPANY.

(n) Website Administration. Administrative rights to the website shall be granted to the person designated by the COMPANY customer (e.g., the business entity entering into this Agreement). Such rights can be delegated to or revoked from another administrator at the request of the business owner or at the time of set-up of the website. In the case of any conflict related to administrative rights, the business owner shall have all authority to add or remove administrative rights to any user. In the case where the business is owned in equal parts by two or more owners, authority shall be assigned to the managing director or other assigned decision maker according to the then current corporate papers. If the decision-making authority is not clear in COMPANY's discretion, changes in ownership will only be made with

written authorization from a majority of participating business owners or other method in writing as established in the corporate papers. COMPANY may, at COMPANY's sole discretion, request documentation establishing to COMPANY's satisfaction the website owner prior to transferring administrative rights. You agree that COMPANY shall have no liability to you, and you hereby release COMPANY from, any liability related to the transfer of administrative rights in accordance with this section.

(o) Overburdening Resources. You may not overburden the Service. You may not place excessive burdens on COMPANY's, or the providers of Third-Party Services', CPUs, servers or other resources or interfere with the services we provide to other customers. Excessive burden includes, but is not limited to, excessive bandwidth or data transfer.

(p) Back-up / Retrieval of User Content. Consult with your own legal, tax, accounting or other advisor for guidance on document and data retention policies applicable to you records. COMPANY does not provide you with guidance on document and data retention policies applicable to your records or the User Content. COMPANY does not provide you with advice regarding the sufficiency of your document and data retention policies. You are solely responsible for maintaining any back-up of User Content or other documents or data you may provide to COMPANY in connection with the Services.

As long as you have paid all fees owed to COMPANY, during the term of this Agreement, if you delete User Content during the term of your subscription, upon written request, COMPANY will use reasonable commercial efforts to restore, or we will provide you with copies of, the requested User Content then in our possession or control, subject to payment of the data restoration fee which will be set forth in the fees section of the COMPANY website.

Upon any termination or expiration of this Agreement, upon request, COMPANY agrees to provide Customer with an export of User Content then in COMPANY's possession in accordance with COMPANY's data release policy and subject to payment of the then-current customer exit data export fee.

(q) Severability. In the event that any term or provision in this Agreement is held to be invalid, void, illegal or unenforceable in any respect, this Agreement will not fail, but will be deemed amended, to the least extent necessary, to delete the void or unenforceable term or provision, and the remainder of this Agreement will be enforced in accordance with its terms and will not in any way be affected or impaired thereby. In the event that any term or provision of this Agreement is held to be overboard or otherwise unreasonable, the same will not fail, but will be deemed amended only to the extent necessary to render it reasonable, and the Parties agree to be bound by the same as thus amended.

(r) Relationship of the Parties. It is agreed that the relationship of the Parties is primarily that of licensee/licensor and independent contractors. Nothing herein shall be construed as creating a joint venture, partnership, employment relationship, or agency relationship between the

Parties, or as authorizing either party to act as agent for the other. Each Party maintains its separate identity.

(s) Attorneys' Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing Party in such action shall be awarded its reasonable attorneys' fees and costs incurred.