



This SERVICE AGREEMENT ("Service Agreement") is hereby entered into between Boehringer Investment Group, Inc. d.b.a. Get The Clicks (hereinafter referred to as "COMPANY") and the third party which has requested certain services to be provided under a separate Order Form which may be executed by both parties from time to time ("CLIENT"), collectively referred hereto as the "Parties".

- A. WHEREAS, COMPANY provides web services including, but not limited to web design, programming, search engine optimization (SEO), paid search, local search, social media marketing, sales consulting, copyrighting, translating, CDR/DVD design, CDR/DVD duplication, graphic design, audio production, video production and/or marketing and related services (the "Project Services") on a fee for services basis.
- B. WHEREAS, CLIENT desires COMPANY to provide certain Project Services to it from time to time, as requested by CLIENT in accordance with the fees then presently established by COMPANY.
- C. WHEREAS, CLIENT and COMPANY have agreed that the Project Services will be provided for the fees as specifically set forth in an order form, the form of which is attached hereto as Exhibit "A" and incorporated herein by this reference (together with any subsequent order forms submitted by CLIENT, the "Order Form").

**NOW THEREFORE**, the parties agree as follows:

#### **AGREEMENT**

**1. DEFINITIONS:** The following definitions shall be utilized throughout the entirety of this Agreement:

- (a) "CLIENT" is the entity requesting the Project Services.
- (b) "COMPANY" is the entity providing the Project Services to CLIENT.
- (c) "Internet" means the global computer network comprising interconnected networks using standard protocols.
- (d) "Internet Service Provider" or "ISP" means an entity that enables the uploading and downloading of data between remote computers and the Internet.
- (e) "Order Form" means the document wherein the specific services to be provided by COMPANY and on CLIENT's behalf shall be itemized in detail and includes the applicable rates for such services. Each Order Form must be signed by an authorized representative of each party for it to be effective.
- (f) "Party" and/or "Parties" are the COMPANY and CLIENT, individually and collectively.
- (g) "Paid Search" means the advertising services on a third party search site (such as Google Ads), which may, from time to time, be a part of the Project Services upon execution of an Order Form for the same.
- (h) "Project Services" means the entirety of the services provided by COMPANY on CLIENT's behalf, including but not limited to, all services identified on each Order Form.
- (i) "Project Manager" means one of CLIENT's employees who shall be deemed as CLIENT's liaison with COMPANY, and who shall have the power to act as CLIENT's Project manager in order to make ongoing decisions under this Agreement which are binding upon CLIENT for the Project Services.

- (j) "SEO" is the optimization of a Web Page on the World Wide Web.
- (k) "Search Engine" is the method and practice by which third party companies organize and make available results to specific inquiries on the World Wide Web.
- (l) "Service Agreement" means this written agreement between COMPANY and CLIENT.
- (m) "Web Page" means each individual screen display contained in CLIENT's Web Site.
- (n) "Web Site" means all Web Pages and domain names associated with CLIENT and its products or services, and which are stored on COMPANY's Internet server computer.
- (o) "Web Site Hosting Service Provider" or "Web Company" means an entity that stores third-party Web Sites on its Internet server computer, receives or stores commands or data transmitted by Internet users, transmits Web Page data to users' Internet addresses, and performs related maintenance.
- (p) "World Wide Web" or "WWW" is a subset of the Internet, and is a common system for browsing Internet Web Sites.

**2. TERM AND TERMINATION.** This Service Agreement shall be effective from the date set forth on the first Order Form to be executed by the parties, and shall continue on a month to month basis. Either Party, at its election and sole discretion, can terminate this Service Agreement and any current Order Form by giving the other party at least thirty (30) days written notice of its desire to do so. Upon termination, CLIENT and COMPANY agree that CLIENT shall take control of, and be responsible for the payment of, the tracking phone numbers obtained by COMPANY pursuant to paragraph 10 of this Service Agreement during the course of COMPANY providing the Project Services.

**3. FEES; LIMITATIONS ON REFUNDS.** CLIENT agrees to pay COMPANY any and all fee(s) as stated in each executed Order Form. The fee(s) must be received prior to the start of any Project Services. THE CLIENT FURTHER AGREES THAT, IN THE EVENT OF ANY TERMINATION OF THIS AGREEMENT OR THE ORDER FORM BY CLIENT, ANY REFUNDS SHALL BE REDUCED BY AN AMOUNT BASED ON A PERCENTAGE OF WORK COMPLETED AND ANY THIRD PARTY PAYMENTS MADE OR OBLIGATED TO BE MADE AS AND TO THE EXTENT PROVIDED IN THE ORDER FORM. THE CLIENT FURTHER AGREES TO PAY UPON CANCELLATION THE AMOUNT OF ANY CANCELLATION FEES OR OTHER AMOUNTS DUE TO COMPANY AS PROVIDED IN THE ORDER FORM. THE COMPANY IS HEREBY AUTHORIZED TO DEDUCT ANY AMOUNTS REMAINING DUE FROM CLIENT FROM ANY REFUNDS AND TO CHARGE CLIENT'S CREDIT CARD ACCOUNT OR OTHER PAYMENT MECHANISM FOR ANY AMOUNTS OWED FROM TIME TO TIME BY CLIENT TO COMPANY. CLIENT UNCONDITIONALLY AGREES THAT IT WILL NOT INITIATE ANY CHARGEBACKS FOR THE DISPUTE OF ANY CHARGES FOR PROJECT SERVICES. ANY DISPUTES WILL BE RESOLVED FIRST BY CLIENT NEGOTIATING WITH COMPANY, AND, IF THAT DOES NOT RESOLVE THE DISPUTE, THEN BY ARITRATION AS PROVIDED BELOW.

**4. BILLING & PAYMENT INFORMATION.** Prepayment - It is CLIENT's responsibility to ensure that payment information is up to date, and that all invoices are paid on time. CLIENT agrees to pay for the Project Services in advance of the time period during which such Project Services are provided. Subject to applicable laws, rules, and regulations, payments received will be first applied to the oldest outstanding invoice in CLIENT's billing account.

**4.1. Autorenewal** - CLIENT agrees that until and unless CLIENT notifies COMPANY of its desire to terminate the Project Services, CLIENT will be billed on an automatically recurring basis to prevent any disruption to the Project Services, using CLIENT's credit card or other billing information on file with COMPANY.

- 4.2. Taxes** - listed fees for the Project Services do not include any applicable sales, use, revenue, excise or other taxes imposed by any taxing authority. Any applicable taxes will be added to CLIENT's invoice as a separate charge to be paid by CLIENT. All fees are non-refundable when paid unless otherwise stated.
- 4.3. Late Payment** - any invoice that is outstanding for more than ten (10) days may result in the suspension or termination of Project Services and CLIENT's access to its account. Access to the account will not be restored until payment has been received. If CLIENT fails to pay the fees as specified herein, COMPANY may suspend or terminate CLIENT's account, and pursue the collection costs incurred by COMPANY, including without limitation, any arbitration and legal fees, and reasonable attorneys' fees. COMPANY will not activate new orders or activate new packages if CLIENT has an outstanding balance on its account.
- 4.4. Domain Payments** – CLIENT is responsible for domain renewals. COMPANY is not responsible for any loss incurred by Client due to loss, or expiration, of Domain renewals.
- 4.5. Cancellation Process** – If CLIENT terminates the Project Services as provided above: (i) CLIENT shall be obligated to pay all fees and charges accrued prior to the effectiveness of such termination and (ii) COMPANY may, in its sole discretion, refund all pre-paid fees for basic hosting services for the full months remaining after the effectiveness of such termination (i.e. no partial month fees shall be refunded) less any setup fees, applicable taxes and any discount applied for prepayment, provided that CLIENT is not in breach of this Services Agreement.

**5. COMPANY RESPONSIBILITIES TO PROVIDE THE PROJECT SERVICES.** COMPANY agrees to provide CLIENT with Project Services as described in each Order Form and this Service Agreement. The Project Services may include from time to time, but is not necessarily limited to, the following:

- 5.1** SEO.COMPANY is authorized to use any keywords and/or phrases it deems appropriate for development, improving the ranking of, and/or positioning the contents of the CLIENT's URL(s) in search engines. SEO is intended to provide the CLIENT with preferential positioning in selected search engines and report results on an ongoing and timely basis. SEO includes, but is not exclusively limited to, utilization of proprietary software known hereto as the "Clicks System" for assisting COMPANY in providing SEO. During the implementation of SEO, COMPANY or CLIENT may propose modifications. Any modification implemented by COMPANY shall be deemed and agreed acceptable by CLIENT unless the modification requires a change in cost. If a cost change is required, such change shall be agreed upon in writing by the Parties, prior to the performance of any work by COMPANY. Such proposed modification and cost, as well as development timeframe, shall be adjusted by COMPANY as COMPANY deems appropriate.
- 5.2** Paid Search. COMPANY is authorized to conduct Paid Searches for CLIENT. Paid Search is intended to provide the CLIENT with text ads, video ads, app ads, shopping ads, display ads and remarketing ads. During the implementation of the Paid Search services, COMPANY or CLIENT may propose modifications, including, but not limited to, the dollar amount of the spending for the Paid Search in any given calendar month. Any modification requested should be sent by Email to COMPANY. Any modification that requires a change in cost shall be agreed upon in writing by the Parties, prior to the performance of any work by COMPANY. Such proposed modification and cost, as well as development timeframe, shall be adjusted by COMPANY as COMPANY deems appropriate.
- 5.3** Web Site Services. COMPANY is authorized to provide Web Site Services. Web Site services includes, but is not exclusively limited to, web design & custom programming. During the implementation of the Web Site services, COMPANY or CLIENT may propose modifications. COMPANY shall make up to three (3) revisions at the initial stage of the Web Site design (each, a "Revision"), if such services have been requested in an Order Form, at no extra charge to CLIENT (the "Three Revision Process"). For purposes of the foregoing, a "Revision" is a single document provided by the CLIENT outlining any and all changes at one time. Revisions should be sent in writing

by Email. Each email will count as one Revision for purposes of the Three Revision Process. The Three Revision Process shall be limited to COMPANY's delivery to CLIENT of each iteration of the Web Site created by COMPANY upon CLIENT's instructions and delivered materials, and upon receipt of each iteration, CLIENT having up to five (5) business days to provide changes and modifications consistent with the design and content elements provide by COMPANY based upon CLIENT's original inputs. Any other modification implemented by COMPANY based upon CLIENT's input shall be deemed and agreed acceptable by CLIENT unless the modification requires a change in cost. All such changes shall be agreed upon in writing by the Parties, prior to the performance of any work by COMPANY. Such proposed modification and cost, as well as development timeframe, once agreed upon, shall be adjusted by COMPANY as COMPANY deems appropriate.

**6. CLIENT ACKNOWLEDGEMENTS.** CLIENT understands, acknowledges and agrees that:

- 6.1. COMPANY has no control over the policies of Search Engine or social media sites with respect to the type of sites and/or content that they accept now or in the future.
- 6.2. COMPANY has no control over development timeframes due to the fluid nature of custom programming and website development.
- 6.3. COMPANY has no control over Search Engine guideline changes and understands that such guideline changes can occur at any time, without notice.
- 6.4. COMPANY is not responsible for CLIENT rank devaluation or rank delisting due to Search Engine guideline changes, violation of Search Engine guidelines, algorithm updates, rank penalties, personalized search parameters or achieving ranking by the use of practices deemed not in accordance with accepted rules or standards by any search engine at any point in time.
- 6.5. Occasionally, a Search Engine will drop listings for no apparent or predictable reason. Often, listings will "reappear" without any additional submissions.
- 6.6. COMPANY is not responsible for changes made to CLIENT's Web Site(s) by other parties that adversely affect the Search Engine or directory rankings of CLIENT's Web Site(s).

**7. CLIENT RESPONSIBILITIES.** CLIENT recognizes that CLIENT's participation and cooperation in all phases of implementing the Project Services is essential, and as such, the CLIENT shall, in good faith, work with COMPANY to best implement the Project Services. In addition, CLIENT hereby agrees to the following items:

- 7.1. CLIENT shall provide COMPANY with full access to its Web Site(s) and email accounts for the purpose of implementing the Project Services or provide the contact with CLIENT's web developer or internet services provider to implement the necessary changes.
- 7.2. CLIENT authorizes COMPANY the use of all of CLIENT's logos, trademarks, Web Site images, etc., for use in creating informational pages and any other uses as deemed necessary by COMPANY for search engine positioning and optimization.
- 7.3. CLIENT agrees not to post or transmit any message anonymously or under a false name.
- 7.4. CLIENT agrees not to post or transmit any message which is libelous, defamatory or which discloses private or personal matters concerning any person.
- 7.5. CLIENT agrees not to post or transmit any message, data, image or program which is illegal, indecent, obscene or pornographic.

- 7.6. CLIENT agrees not to post or transmit any message, data, image or program that would violate the intellectual property rights of others.
- 7.7. CLIENT agrees not to interfere with the use of the Internet by any other COMPANY clients or other users.
- 7.8. CLIENT agrees not to post or transmit any message which is harmful, threatening, abusive or hateful.
- 7.9. CLIENT agrees not to post or list articles which are off-topic.
- 7.10. CLIENT agrees not to list or send unsolicited mass e-mailings to more than *twenty-five (25)* e-mail users, if such unsolicited e-mailings provoke complaints from the recipients.
- 7.11. CLIENT agrees that it shall be solely responsible for providing its own connection to the Internet via a telecommunications service, and that it shall be solely responsible for providing a suitable computer, modem and other hardware or communications equipment necessary to access the Internet.
- 7.12. CLIENT agrees that its account shall be used solely by CLIENT. Regardless of whether CLIENT has actual control over the acts of third parties, CLIENT agrees that it has the last clear chance to avoid usage of its account by third parties, and CLIENT indemnifies and holds COMPANY harmless for any unauthorized account usage and any resulting harm which occurs thereafter.
- 7.13. CLIENT is responsible for its Web Site security. CLIENT may elect to have its Web Site coding updated to the latest security and Search Engine standards through the execution of an Order Form. Upgrades may include, but are not limited to, coding to improve SEO, security standards, licensing & PCI compliance, content management system updates, template upgrades and redesigns. Should CLIENT elect to not upgrade, CLIENT hereby acknowledges that any and all, consequences arising out of CLIENTS decision not to comply with the latest Internet security standards are a major risk, advised against by COMPANY, and done at the sole discretion of CLIENT. CLIENT assumes full responsibility for this decision, and specifically agrees to indemnify and hold COMPANY harmless from any liability associated therewith in accordance with the Indemnity paragraph of this Service Agreement.
- 7.14. CLIENT hereby agrees that any and all requests made by COMPANY are time sensitive. Any pending communication, including but not limited to requests for collateral such as images & content, questions being answered, Web Site approvals, revisions feedback and SEO issues involving CLIENT must be provided within 15 calendar days. Should CLIENT not provide the necessary information in this time frame, COMPANY may take the necessary steps it deems appropriate to continue the Project Services, including but not limited to, approval of Web Site designs, content, images and SEO approach. In such an event, and upon completion of the Project Services, CLIENT hereby agrees to accept the Project Services as completed, and agrees to pay COMPANY for any additional revisions at a rate of \$150/hr.
- 7.15. Unless provided in an Order Form, or in the process followed in 5.3, above, CLIENT agrees that all WEB SITE Services under each Order Form are based on the Three Revision Process. COMPANY reserves the right to charge an hourly rate of \$150 for any design or content revisions exceeding those provided in the Three Revision Process.

**8. CLIENT REPRESENTATIONS.** CLIENT makes the following representations and warranties for the benefit of COMPANY:

- 8.1. CLIENT represents and warrants that all elements of text, graphics, photos, designs, trademarks, or other artwork furnished to COMPANY are owned by CLIENT, or that CLIENT has permission from the rightful owner to use each of these elements.

- 8.2. From time to time, governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. CLIENT agrees that the CLIENT is solely responsible for complying with such laws, taxes, and tariffs.
- 8.3. CLIENT will not, unless acting with COMPANY's express written consent, during the term of this Service Agreement, and for a period of one year from the date of termination of this Service Agreement, solicit for employment, or employ directly or indirectly, any employee(s) of the COMPANY that worked on any part of the Project Services.
9. **ADDITIONAL SERVICES.** Additional services not listed herein or in an Order Form will be provided at a rate of \$150.00 per hour. In addition, COMPANY is not responsible for CLIENT's overwriting Project Services work to CLIENT's Web Site(s). CLIENT will be charged an additional fee for re-constructing meta-tags, keywords, content, etc. based at the hourly rate of \$150.00 per hour.
10. **THIRD PARTY PURCHASES.** CLIENT authorizes COMPANY to make third party purchases on behalf of CLIENT to implement and enhance the Project Services. A monthly third party purchase budget will be pre-authorized by CLIENT for each request for Project Services, on the associated Order Form, and may include, but is not limited to, Paid Search costs, tracking phone numbers, directory submissions, press release submissions, search submissions, print purchases, URL purchases and/or any other charges deemed appropriate by COMPANY to enhance CLIENT's marketing presence. Upon the execution by both CLIENT and COMPANY of a new associated Order Form, such third party purchases shall be reauthorized within a total budget, but individual "buys" may be changed from time to time, as determined by COMPANY to maximize the impact of the third party purchases.
11. **INTELLECTUAL PROPERTY RIGHTS.** The following terms shall govern the use of all applicable intellectual property rights by and between the Parties:
- 11.1. CLIENT's Retained Rights in Works Created by COMPANY: Upon payment of all outstanding invoices to COMPANY, the parties agree that all Project Services, and any other copyrightable material and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by COMPANY in the course of providing the Project Services described in "Schedule 1" and "Schedule 4" attached hereto (the "Company Works"), are, and shall remain, works made for hire and that CLIENT shall be deemed the Author of the Company Works and shall be the owner of the copyright in the Company Works. If the Company Works do not qualify as works made for hire under applicable copyright law, COMPANY grants, conveys, assigns, and transfers to CLIENT any and all proprietary rights in and to the Company Works, including but not limited to the copyright. CLIENT renounces and waives any and all rights it may have to limit the use, distribution, modification, licensing or sale of the Company Works by CLIENT or its licensees, successors, or assignees, or to receive any compensation whatsoever (excepting payment for the Services) by reason of any use, distribution, modification, licensing or sale of the Company Works by CLIENT, its licensees, successors or assignees. COMPANY further agrees that, on request and without further consideration (but at the expense of the CLIENT), that COMPANY will execute all applications, make all rightful oaths, and generally do everything necessary to file appropriate registration and/or assignment papers with the United States Copyright Office and the Copyright Office of any other country involved as are necessary to effectuate the transfer of the title contemplated by this paragraph.
- 11.2. COMPANY's Retained Rights in Works Created by COMPANY: The parties agree that all Project Services, and any other copyrightable material and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by COMPANY in the course of providing the Project Services described in "Schedule 2" attached hereto (the "Original Works"), are, and shall remain, the property of COMPANY. CLIENT renounces and waives any and all rights it may have to limit the use, distribution, modification, licensing or sale of the Original Works by COMPANY or its licensees, successors, or assignees.

**11.3. COMPANY's Retained Rights in Works Created by COMPANY and Licensed to CLIENT:** The parties agree that all Project Services, and any other copyrightable material and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by COMPANY in the course of providing the Project Services described in "Schedule 3" attached hereto (the "Company Licensed Works"), shall be treated the same as Company Works for purposes of copyright ownership, but ownership shall vest in COMPANY. However, the Company Licensed Works are hereby licensed by COMPANY to CLIENT on a non exclusive basis for a period equal to the term of this Agreement solely for its website and web applications.

**11.4. CLIENT's Retained Rights in Works Created by COMPANY and Licensed to COMPANY:** Upon payment of all outstanding invoices to COMPANY, the parties agree that all Project Services, and any other copyrightable material and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by COMPANY in the course of providing the Project Services described in "Schedule 4" attached hereto (the "Client Licensed Works"), shall be treated the same as Company Works for purposes of copyright ownership, and therefore ownership shall vest in CLIENT. However, the CLIENT Licensed Works are hereby licensed by CLIENT to COMPANY on a non exclusive basis in perpetuity for any purpose.

**11.5. CLIENT's Retained Rights in CLIENT OWNED PROPERTY:** CLIENT shall be deemed the author and owner of CLIENT's domain name, any graphics or data provided by CLIENT and incorporated into the Project Services, or incorporated into any work embodying or derived from any portion of the Project Services. This information may include copyrighted content, attached databases, training manuals, product information and/or logos.

**11.6. Publicity and Demonstration Rights of Project Services:** CLIENT hereby expressly grants, assigns and otherwise transfers, non-exclusively to COMPANY, for the two year period after termination of COMPANIES services to COMPANY, its successors and its assigns, the right to publicly perform or to publicly display the Project Services only for the purposes of COMPANY marketing and advertising.

**12. INDEMNIFICATION.** CLIENT shall indemnify and hold harmless COMPANY (and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees) from any and all claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees and all related costs and expenses) incurred by COMPANY as a result of any claim, judgment, or adjudication against COMPANY related to or arising from (a) breach of any representation or obligation of CLIENT under the terms of this Services Agreement, (b) any photographs, illustrations, graphics, audio clips, video clips, text, data, hosting, PCI compliance or any other information, content, display, or material (whether written, graphic, sound, or otherwise) provided by CLIENT to COMPANY (the "CLIENT Content"), or (c) a claim that COMPANY's use of the CLIENT Content infringes the intellectual property rights of a third party.

**13. DISCLAIMER OF ALL OTHER WARRANTIES.** COMPANY DOES NOT WARRANT THAT THE PROJECT SERVICES WILL MEET THE CLIENT'S EXPECTATIONS OR REQUIREMENTS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE IS WITH CLIENT. EXCEPT AS OTHERWISE SPECIFIED IN THIS SERVICE AGREEMENT, COMPANY PROVIDES ITS SERVICES "AS IS" AND WITHOUT WARRANTY OF ANY KIND. THE PARTIES AGREE THAT (A) THE LIMITED WARRANTIES SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED BY EACH PARTY, AND (B) EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THIS AGREEMENT, PERFORMANCE OR INABILITY TO PERFORM UNDER THIS AGREEMENT, THE CONTENT, AND EACH PARTY'S COMPUTING AND DISTRIBUTION SYSTEM. IF ANY PROVISION OF THIS AGREEMENT SHALL BE UNLAWFUL, VOID, OR FOR ANY REASON UNENFORCEABLE, THEN THAT PROVISION SHALL BE DEEMED

SEVERABLE FROM THIS SERVICE AGREEMENT AND SHALL NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF ANY REMAINING PROVISIONS.

- 14. LIMITED LIABILITY.** IN NO EVENT SHALL COMPANY BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, LOST PROFITS, WHETHER OR NOT FORESEEABLE OR ALLEGED TO BE BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE OR STRICT LIABILITY, ARISING UNDER THIS SERVICE AGREEMENT, LOSS OF DATA, OR ANY PERFORMANCE UNDER THIS SERVICE AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. THERE SHALL BE NO REFUNDS. COMPANY MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO ANY ADVICE GIVEN BY COMPANY, SPECIFICALLY INCLUDING ITS ACCOUNT STRATEGISTS, ANY THIRD PARTY PRODUCTS, THIRD PARTY CONTENT OR ANY SOFTWARE, EQUIPMENT, OR HARDWARE OBTAINED FROM THIRD PARTIES. COMPANY SHALL NOT BE LIABLE FOR CLIENT'S FAILURE TO TAKE POSSESSION OR CONTROL OF ANY ITEMS IDENTIFIED IN THIS AGREEMENT AS BELONGING TO CLIENT UPON TERMINATION OF THIS AGREEMENT. MOREOVER, ANY DAMAGES AWARDBLE TO CLIENT SHALL BE EXPRESSLY LIMITED TO THE MONETARY EQUIVALENT OF ONE (1) MONTH OF THE PROJECT SERVICES OR \$500.00, WHICHEVER IS LESS.
- 15. CONFIDENTIALITY.** The Parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" shall include, but is not limited to, written or oral contracts, trade secrets, know-how, business methods, business policies, memoranda, reports, records, computer retained information, notes, or financial information. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving Party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving Party; or (iv) is subject to disclosure under court order or other lawful process. The Parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Service Agreement. Each Party's proprietary or confidential information shall remain the sole and exclusive property of that Party. The Parties agree that in the event of use or disclosure by the other Party other than as specifically provided for in this Service Agreement, the non-disclosing Party may be entitled to equitable relief. Notwithstanding termination or expiration of this Service Agreement, COMPANY and CLIENT acknowledge and agree that their obligations of confidentiality with respect to Proprietary or Confidential Information shall continue in effect for a total period of two- (2) years from the effective date.
- 16. FORCE MAJEURE.** Neither Party will be liable for, or will be considered to be in breach of or default under this Service Agreement on account of, any delay or failure to perform as required by this Service Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimize the impact of the event.
- 17. RELATIONSHIP OF PARTIES.** COMPANY, in providing the Project Services under this Service Agreement, shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. CLIENT does not undertake by this Service Agreement, an Order Form or otherwise to perform any obligation of COMPANY, whether by regulation or contract. In no way is COMPANY to be construed as the agent or to be acting as the agent of CLIENT in any respect, any other provisions of this Service Agreement notwithstanding.



- 18. NOTICE AND PAYMENT.** Any notice required to be given under this Service Agreement shall be in writing and delivered personally to the other designated party at the addresses listed in the Order Form or mailed by certified, registered or Express mail, return receipt requested or by Federal Express or other private express delivery service. Either party may change its address to which notice or payment is to be sent by written notice to the other under any provision of this paragraph.
- 19. JURISDICTION/DISPUTES.** This Service Agreement shall be governed in accordance with the laws of the State of Florida. Subject to the requirement for arbitration to resolve disputes set forth below, any remaining matters under this Service Agreement shall be resolved by litigation in the applicable circuit or county court of Orange County, Orlando, Florida. Further, the Parties all consent to the jurisdiction of such courts, and agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.
- 20. AGREEMENT BINDING ON SUCCESSORS.** The provisions of the Service Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their heirs, administrators, successors and assigns.
- 21. ASSIGNABILITY.** CLIENT may not assign this Service Agreement or the rights and obligations thereunder to any third party without the prior express written approval of COMPANY. COMPANY reserves the right to assign subcontractors as needed to for the Project Services.
- 22. WAIVER.** No waiver by either Party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Service Agreement.
- 23. SEVERABILITY.** If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from this Service Agreement.
- 24. INTEGRATION.** This Service Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties. It shall not be modified or amended except in writing signed by the Parties hereto. In the event of a conflict between an Order Form(s) and this Service Agreement, this Service Agreement shall take precedence.
- 25. NO INFERENCE AGAINST AUTHOR.** No provision of this Service Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.
- 26. DISPUTE RESOLUTION.** CLIENT and COMPANY agree to make a good-faith effort to resolve any disagreement arising out of, or in connection with, this Service Agreement through negotiation. Should the Parties fail to resolve any such disagreement within ten (10) days, any controversy or claim arising out of or relating to this Service Agreement, including, without limitation, the interpretation or breach thereof, shall be submitted by either party to arbitration in Orange County, Florida and in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted by one arbitrator, who shall be (a) selected in the sole discretion of the American Arbitration Association administrator and (b) a licensed attorney with at least ten (10) years experience in the practice of law and at least five (5) years experience in the negotiation of technology contracts or litigation of technology disputes. The arbitrator shall have the power to enter any award that could be entered by a judge of the state courts of Florida sitting without a jury, and only such power, except that the arbitrator shall not have the power to award punitive damages, treble damages, or any other damages which are not compensatory, even if permitted under the laws of the State of Florida or any other applicable law. The arbitrator must issue his or her resolution of any dispute within thirty (30) days of the date the dispute is submitted for arbitration. The written decision of the arbitrator shall be final and binding and enforceable in any court having jurisdiction over the parties and the subject matter of the arbitration. Notwithstanding the foregoing, this paragraph shall not preclude either party from seeking temporary, provisional, or injunctive relief pursuant to the litigation provisions set forth above.

**27. READ AND UNDERSTOOD.** Each Party acknowledges that it has read and understands this Service Agreement and agrees to be bound by its terms and conditions.

**28. DULY AUTHORIZED REPRESENTATIVE.** Each Party warrants that these terms and conditions are hereby incorporated into any Order Form that is duly authorized and signed by all necessary and appropriate corporate actions by the Parties.

## SCHEDULE 1

Directory Listings

Web Site

Content Created Specific to Client

Design Work for Web Site

Display Ads

## SCHEDULE 2

None

## SCHEDULE 3

Coding and Programming Across Multiple Platforms

## SCHEDULE 4

Custom Programming