

# MASTER SERVICES AGREEMENT

## Introduction

Although there is also some unavoidable standardized legalese at various places in the document which our attorney required, in this document we try to write everything in plain English. To do this, we frequently use terms like “we” and “you.” “We,” “us,” “our,” and “the Company” means MdO Media, an LLC registered in the State of Arizona. “You,” “your,” “Customer” or “Client” in this document is you, our Client.

## Current Hourly Rate

Throughout this document, reference is made to our current hourly rate. This rate is defined as our hourly rate that is in place at the time a service is requested, not at the time this agreement is signed. The hourly rate as of 2022 is \$75.00 per hour.

## The Project

You are hiring us to complete your project according to the specific scope of work we described in the proposal of services document you will receive. The proposed cost of the project in the proposal includes only this work. When you hire us, we are independent “work for hire” contractors and not employees of you or your business.

## Availability and Communication

We are available via email and phone Monday through Thursday from 8:00 am to 5:00 pm, Fridays from 8:00 am to 12:00 pm Eastern time. Our normal response time is one business day, though our response time may vary. We do not work on weekends or holidays. Clients with current website management services receive priority response times.

## The Proposal of Services

The Proposal of Services details the work we will deliver to you, including without limitations, the deliverables and specifications thereto, and any and all compensation to be paid for such work. If additional services are requested by the Client, the parties may enter into one or more other Proposals of Service signed by the parties. Notwithstanding the foregoing, the terms of any Proposal of Services entered into between the parties, shall be in addition and supplemental to the terms of this Agreement. If there is a conflict between this Master Services Agreement and any part of the Proposal of Services, the terms of the Proposal of Services shall be binding regarding scope of work and the fees for said work.

## Time Frames

It is our experience that a typical website design project takes about 6 weeks (not including holidays). This is a rough estimate and depends on a number of factors, including but not limited to the complexity of your project, our current workload, material availability, and any problems that might arise as we work on your project. **Unless specifically defined in the Proposal of Services, we do not guarantee website launch by a specific date. As a matter of law, for this contract time shall be considered to be NOT of the essence unless agreed upon by all parties in writing and made a part of the contract.**

We have an active queue of work and we do not place your project in that queue until your deposit (explained below) has been received. While we endeavor to start your project quickly, we will not begin your project until it reaches the front of our queue so that it can receive our full attention.

## Delayed, Suspended and Abandoned Projects

In our experience, projects can often stall as we wait on assets, information, feedback, approvals, etc. we have requested from you. While we are waiting on your response, we will normally begin to work on other projects to make efficient use of our time.

**A project is considered delayed if your response to our request for assets, information, feedback, approvals, etc. is delayed for more than 5 business days.** When a project is delayed, we may remove it from our active queue and place it at the back of the line. Work will resume on a delayed project when we have received what was requested and our queue of work allows us to focus on your project again.

**A project is considered suspended if your response to our request for assets, information, feedback, approvals, etc. is delayed for more than 45 days without a reasonable cause as determined by us.** When a project is suspended, an invoice for the remaining balance of the project shall be sent and considered due upon receipt.

**ONCE A PROJECT IS CONSIDERED SUSPENDED, IT IS THE SOLE RESPONSIBILITY OF THE CLIENT TO REACTIVATE THE PROJECT BY (1) SUPPLYING ALL ITEMS NECESSARY TO COMPLETE THE PROJECT AND (2) PAYING THE BALANCE OF THE PROJECT IN FULL.**

**After a project is considered suspended, we will not perform any additional work on the project until the project has been reactivated as explained above.**

**A project is considered abandoned if your response to our request for assets, information, feedback, approvals, etc. is delayed for more than 90 days without a reasonable cause as determined by us. WHEN A PROJECT IS ABANDONED, ANY MONIES PAID TO US FOR THE PROJECT IN QUESTION SHALL BE FORFEITED.**

## Rush Projects

Projects requiring a "Rush" will typically incur at least a 50% markup of the total project cost. This increase is necessary to cover the overtime and additional costs incurred to complete your project in the time frame you require.

## Change Budget

It is our experience that changes to the scope of work often occur during a project. These changes usually require additional costs and time. To allow for these change requests, we normally include a Change Budget in the Proposal of Services.

The Change Budget is approved as part of the Proposal of Services and is used only if you request changes to the original scope of work, or want to make changes to previously approved items. We will provide a separate scope of work for the changes you request and a cost for these changes. When you approve this scope and cost, the amount will, at our discretion, be payable immediately or on the final project invoice.

## Payment Schedule

In consideration of the services to be provided hereunder the parties agree that the Company shall be paid in accordance with any Proposals of Service executed by the parties pursuant to this Agreement.

Our standard payment terms are:

- 50% of the Cost of Proposed Scope of Work due as a non-refundable deposit upon execution of the Proposal of

Services and this Master Services Agreement

- Remaining 50% and amount of the change budget utilized is due prior to project launch

**The project must be paid in full, including any amount of the change budget used, prior to website launch.**

At our discretion in certain cases, we may request that payments be made at certain additional milestones. If milestone payments are necessary, they will be specifically detailed in the Proposal of Services.

## Payment Methods

Payment to us can be made using check, ACH, or major credit card. Postdated checks are not an acceptable form of payment.

## Late Payment and Collections Policy

All invoices pertaining to web hosting, security, maintenance, or any other work on your website are payable on receipt.

Amounts due and unpaid shall bear an interest at the rate of twelve percent (12%) per annum. Client agrees to pay all costs of collection, including reasonable attorney's fees, as additional sums owed under this Agreement.

## Termination and Refunds

This Agreement may be terminated immediately by either party upon written notice for any of the following:

- Upon five (5) days prior written notice by either party to the other party, or
- If the other party defaults in the performance of any material provision of this Agreement, which default is not cured within thirty (30) days after written notice from the non-defaulting party.

**IF YOU WISH TO TERMINATE THE PROJECT AFTER THIS AGREEMENT HAS BEEN EXECUTED, YOUR INITIAL 50% DEPOSIT IS NON-REFUNDABLE FOR ANY REASON.**

**IF YOU ELECT TO TERMINATE THE PROJECT AT ANY POINT AFTER PHASE THREE HAS BEGUN (AS DEFINED IN "OUR WEBSITE CREATION PROCESS" BELOW), YOU WILL BE LIABLE FOR THE ENTIRE COST OF THE PROJECT.**

If we elect to terminate a project, we will create an estimate of the percentage of the scope of work that has been completed. If the percentage of work completed is less than the percentage of the project that has been paid, we will issue a refund for the difference. If the percentage of the project that has been completed is more than the percentage of the project that has been paid, an invoice will be issued for the difference.

Assets for a terminated project (such as the website, custom graphics, etc.) will be delivered to the client when the client's account reaches a zero balance.

## Intellectual Property Rights (Who Owns What)

"Intellectual property rights" means all patents, rights to inventions, copyright (including rights in software) and related rights, trademarks, service marks, trade names, internet domain names, rights to goodwill or to sue for passing off, rights in designs, database rights, rights in confidential information (including know-how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or shall subsist now or in the future in any part of the world.

Your new website will be built using the WordPress content management system. WordPress and its associated software are “open source,” distributed under the GNU General Public License. We use WordPress to power your website, but neither of us “own” WordPress or the third-party plugins used to add features to your website. When you hire us to build your website, you are not purchasing WordPress, you are retaining our services to create a customized website using the WordPress system.

When we utilize images or other content that are licensed for use on your website by a third party, that party retains ownership of the content in question according to the terms of their own license agreements. For example, if we use a stock photo on your site, you typically pay for the license to use the photo on your site but you do not own that photo. If you have questions about licensing issues like this, just ask.

When your project is completed, or payment in full for your project has been received, and provided that this contract hasn't been terminated, we'll assign intellectual property rights to you as follows:

You own the website and visual elements we create for you and you may do whatever you want with it. Upon request, we will provide the source files for any custom artwork that was created for your project. You own all intellectual property rights of text, images, site specification and data you provided, unless someone else owns them.

We own any intellectual property rights to anything we have developed prior to, or separately from this project. During the process of creating your website, we may create design, code, functionality, and processes. While this work is used on your website, we retain ownership of these as our intellectual property and reserve the right to use them in future projects. This re-use helps us serve our future clients better, just as your website will benefit from what we have learned and developed in previous projects.

## Our Website Creation Process

Our typical web site creation process is described below. This process may change based on the requirements of your project. If changes to this process are required, they will be outlined in the Proposal of Services.

### PHASE ONE: Content

- At the beginning of your project, we will provide a Content Guide to assist you in the process of collecting the content we will need to create your new website.
- If you select our professional content creation service, our content writer will contact you and manage the collection and creation of the content.
- We will also give you a “Design Brief” that will help us understand the colors and designs you prefer for your new website which will be used in Phase Two.
- Phase One concludes when we receive in full the assembled content for the website, including the completed Content Guide, Design Brief and all assets (logos, photos, videos, etc.) that will be used on the website.

### PHASE TWO: Concept

- Based on the information you provide in the Design Brief and other assets you supply, we will produce a design concept that has been created to effectively reach your target audience.
- We will work with you to adjust the design concept until you are satisfied.
- Phase Two concludes when you approve the design concept for your website.

### PHASE THREE: Development

- The design concept layout approved in Phase Two is converted into a customized WordPress website, pages are built and functionality is added.
- Phase Three concludes when we complete the website and submit it to you for revisions.

### PHASE FOUR: Revisions

- You review the website for design and content and create a list of revisions that need to be made.
- Revisions are minor updates and changes to existing content.

- The Change Budget is used for change requests such as but not limited to:
  - New functionality you want to add to the project
  - Revisions to previously approved items, including design concepts approved in Phase Two
  - Other revisions requested in this phase that would exceed 4 hours in total to accomplish
- Phase Four concludes when you complete the launch approval form on our website, and the final payment is received.

## PHASE FIVE: Launch

We will publish your website so that it is viewable on your domain name. *Important Note: Due to the nature of the Internet, it can take 24 hours or longer for a newly published website to be viewable by everyone.*

## Compatibility

Your new website will be designed for viewing on modern screens for desktops, laptops and mobile devices. We test for compatibility in the following desktop web browsers: Microsoft Edge, Mozilla Firefox, Apple Safari and Google Chrome. We test for compatibility on the following mobile web browsers: Apple Safari (iOS) and Google Chrome (iOS and Android).

**Unless specifically included in the scope of work, we do not code for web browsers or operating systems older than the current release or for those in pre-release or beta at the time the project is begun. There will normally be additional charges for this work.**

## Theme and Plugin Licenses and Updates

One of the most important strengths of WordPress is its immense ecosystem of third-party add-on software called themes and plugins. Some of these require no specific licensing for use on your website. However, we often use premium WordPress themes and plugins that require an annual licensing fee for ongoing updates and support.

- Premium themes and plugins used on your website are provided at their current software version.
- Future updates and security patches for premium themes and plugins are covered as part of our website management service.
- **WE CANNOT GUARANTEE UPDATES OR SECURITY PATCHES FOR ANY PREMIUM THEMES AND PLUGINS USED ON YOUR SITE IF YOU OPT NOT TO PARTICIPATE IN OUR WEBSITE MANAGEMENT SERVICE (see below).**

## Changes After Launch

The design project described by the Scope of Work in the Proposal of Services concludes when your website is launched. Though we are happy to help you with changes to your website after launch, any changes or modifications that were not included in the original scope of work, other than fixing existing bugs (see below), are billable at our current hourly rate.

**An “existing bug” is an error in the programming we provided that existed prior to launch and affects the operation or appearance of your website.**

Additional costs at our current hourly rate will be incurred for future support requests such as but not limited to:

- Your website has problems or stops working after an update to WordPress or any plugins or software you are using (note: our website management plans cover these ongoing compatibility issues, see below).
- You or a third party add code or a plugin to your site that affects its operation.
- You need assistance adding new plugins or features to your site that weren't included in the original project.
- A new version of a web browser has issues displaying your website properly.

- You or a third party make changes or alterations to any part of the site.
- Your site gets hacked or compromised and/or you lose files or data.

## The Use of Third-Party Assets

By providing any assets such as text, images, artwork or any other elements to us, you guarantee that they are either owned by you or that you have secured permission from the owner to use them. You agree to protect us from any claim by a third party that the assets you supplied to us are their intellectual property.

We guarantee that all elements of the work we deliver to you are either owned by us or that we have obtained appropriate permission from the owner to provide them to you.

Securing the appropriate licenses for photography that you provide to us to use on your website is your responsibility. You assume the full risk of liability for the use of all images. If you are in doubt of the licensing status of an image, contact the original artist before providing it for us to use in your design project.

We often utilize royalty-free images obtained from stock photo websites. The cost for licensing this stock photography is not included in the proposal unless specifically itemized. We will secure your approval before purchasing any stock photography. Stock photo charges are typically billed on the final project invoice.

## Website Hosting

**Pricing in our proposal assumes that you will also purchase our website management service, which includes website hosting.** Our website hosting is optimized for our workflow. Since using other servers typically requires a change in our workflow (and makes the project take longer as a result), there will usually be a surcharge added to your proposal if we do not host your website.

**In addition, if you elect not to host on our server, we cannot be responsible for the speed of your website, the performance of any of your website features, security certificates for your website, the uptime of your website, or any other hosting related matter.**

**FIXING ANY PROBLEMS RELATED TO WEB HOSTING, OR PROJECT DELAYS RELATED TO WEB HOSTING ON A SERVER OTHER THAN OUR OWN IS BILLABLE AT OUR CURRENTLY HOURLY RATE.**

We use commercially reasonable efforts to make sites that we host available 99.9% of the time during each monthly billing cycle. If we are unable to meet this service level, you will be eligible to receive a credit to apply to future billing cycles based upon the unavailability for that month. For the purposes of this agreement, unavailability means that either your website is unresponsive, or your website returns a server error response to valid user requests for more than 60 seconds of consecutive requests, and in all cases that the unavailability is not because of local, regional, national or international outages.

Unavailability that is a result of scheduled maintenance is excluded from these conditions and will not be considered for service credit calculations. Scheduled maintenance is defined as maintenance that is announced at least 2 days in advance, and does not exceed one hour in any month. Typically, scheduled maintenance occurs in off-peak hours (usually in the early morning).

Service credits will be calculated as a percentage of the bill for the billing cycle that the unavailability occurred. The percentage for the credit will be calculated by dividing the number of minutes of unavailability by the total number of minutes in that billing cycle. **THE CUSTOMER MUST REQUEST SERVICE CREDITS WITHIN 7 DAYS OF THE UNAVAILABILITY OCCURRING.**

## Website Management Service

Our Website Management includes website hosting, website software updates, website backups, and website security.

- **Website Security** Our lockdown protocol hardens the WordPress system to make it more resistant to the actions of hackers. We employ industry leading security software that actively guards your website against hack attempts at multiple levels in the WordPress system.
- **Website Backups** Your website's files and database will be backed up automatically each day your website has activity (if your website does not have activity, there is no need for a backup to occur). This backup is stored in our cloud data vault where we typically retain the previous 30 backups for your site.
- **Software Updates** Each week, at our discretion, we will apply available updates for the WordPress core software, your theme files, and your plugin files. We perform these updates for the items that appear in the "Updates" area of your WordPress dashboard. We also watch WordPress industry security news and proactively perform these updates more frequently during times of enhanced threat levels.

While it is impossible to guarantee that your site will never be hacked, all of these techniques make your website a more difficult target for hackers. In addition, it is well known that hackers tend to exploit easier targets first – sites without security measures in place. However, in the event that your site is hacked, we will restore it to pre-hack condition at no additional cost either by restoring a site backup or performing a malware cleanup at our discretion. We shall have no other or further liability beyond restoration of the site to the nearest available pre-hack condition.

#### **Restoring Backups**

- Should your site become compromised by a hack or if your site becomes inoperable because of user error, we will restore a backup for you.
- If the restorations are the result of a hack, there is no limit to the number of restorations we will perform for you under this service.
- If the restorations are due to user error, we will perform a maximum of 2 restorations in any 30-day period.
- Additional user error-related restorations will be performed at our current hourly rate with a one-hour minimum.

#### **Premium (Paid) Themes and Plugins**

- Many websites use themes and/or plugins that require the payment of a recurring license fee to maintain access to ongoing software updates. We have secured appropriate licensing for many of these.
- If we have appropriate licenses for the themes and/or plugins used by your website, the cost for recurring license fees are included in your Website Management Services, and licensing will be maintained for you as long as you are an active subscriber to our Website Management Services.
- If your website uses premium themes and/or plugins and we do not have appropriate licensing, the responsibility is yours for maintaining the appropriate licensing to ensure the availability of updates.
- We will advise you of the themes and/or plugins for which you will need to maintain licensing and assist you as needed in the process of obtaining them.

**WE CANNOT BE HELD LIABLE FOR PROBLEMS SUCH AS BUT NOT LIMITED TO HACKS, INOPERABILITY OR INTERCOMPATIBILITY THAT ARISE FROM PREMIUM PLUGINS WHICH YOU CHOOSE NOT TO LICENSE AND ARE OUT OF DATE.**

#### **Plugin Compatibility**

If an update to a plugin creates conflicts or causes issues with the functionality of your website, we will consult with you to determine the best course of action. Typically, we will remove the offending plugin and replace it with a similar plugin or other programming. If the time required to resolve a plugin compatibility issue exceeds 3 hours, additional time will be billable at our current hourly rate.

**IT IS YOUR RESPONSIBILITY TO INFORM US IF YOUR SITE IS EXPERIENCING PROBLEMS AND NEEDS ATTENTION.**

**IF YOU ELECT NOT TO PURCHASE OUR WEBSITE MANAGEMENT SERVICE, THE TOTAL RESPONSIBILITY IS YOURS FOR PERFORMING BACKUPS AND KEEPING WORDPRESS (AND ITS THEMES AND PLUGINS) UPDATED.**

## **Payment and Cancellation for Website Management Services**

Payment for Website Management Services is due on the first day of the period (monthly, quarterly, or annually) in which that service will be performed.

You may cancel website management services with a 30-day notice. **WE DO NOT OFFER REFUNDS ON WEBSITE MANAGEMENT SERVICES.**

**IF YOU ELECT TO DISCONTINUE WEBSITE MANAGEMENT SERVICES, THE TOTAL RESPONSIBILITY IS YOURS FOR PERFORMING BACKUPS AND KEEPING ALL COMPONENTS OF YOUR WEBSITE BACKED UP, SECURED, AND UPDATED.**

If you desire to migrate your website to another web host. We will at your discretion (1) provide you with an administrator login for your WordPress site so a backup can be performed and migrated to the new location, (2) provide to you a backup created using an industry standard WordPress backup system at a cost of \$100, or (3) perform the website migration for you at our current hourly rate.

## Your Responsibilities in Website Security

We employ basic WordPress security techniques when building your website. However, studies have shown that one of the most common ways that hackers gain access to your website is through keylogging programs installed on the infected computers of users. You agree to protect any computer that you control that will log into the website by:

- Installing and maintaining updated security software
- Using the most up-to-date version of your preferred web browser
- Keeping the operating system patched with recommended updates
- Keeping versions of other installed software up to date if they are installed
- Using a strong password (as shown by the WordPress password indicator) for any account you use to log in and edit your website, and that this password will only be used on your website.

**You also agree that any employees, contractors, or other entities to whom you give (or ask us to give) access to the website will meet the requirements above.**

We recommend the use of a password manager so that you have strong unique passwords for every site you access.

## Third-Party Services

From time to time, our clients might employ a third party (such as but not limited to a Search Engine Optimization professional, social media professional, or content writer) whose services involve modifications to the website. **WE CANNOT BE RESPONSIBLE FOR THE WORK OF A THIRD PARTY.** Should our services be necessary due to any work performed by a third party, these services are billable at our current hourly rate.

**OUR WEBSITE MANAGEMENT PLANS DO NOT COVER WORK NECESSARY DUE TO ACTIONS PERFORMED BY A THIRD PARTY. SHOULD OUR SERVICES BE NECESSARY DUE TO ANY WORK PERFORMED BY A THIRD PARTY, THESE SERVICES ARE BILLABLE AT OUR CURRENT HOURLY RATE.**

## Search Engine Optimization (SEO)

If we build your website, we guarantee that your site will be able to be indexed by search engines like Google and others at the time of launch. **Additional SEO services are not included in your project unless specifically itemized in the proposal of services.** Your ranking and placement on search engines depend on a myriad of factors. **WE CANNOT GUARANTEE RANKING OR PLACEMENT ON ANY SEARCH ENGINE.**

## Website Accessibility and Compliance

If laws require that your website is accessible to users with disabilities, or if you desire for it to be, it is your responsibility to inform us of this requirement.

If your website or any associated data must meet compliance requirements of any kind for any entity, organization, or regulatory body (such as but not limited to HIPAA, FERPA, etc.), it is your responsibility to inform us of the specific compliance requirements involved.

**WE DO NOT GUARANTEE TO MEET ANY COMPLIANCE FOR ACCESSIBILITY OR OTHER REQUIREMENTS UNLESS WE HAVE EXPLICITLY AGREED TO DO SO AS PART OF THE SCOPE OF WORK.**

## Legal Pages and Privacy Requirements

Depending on the nature of your site and your location, legal pages such as Terms of Use and policy pages such as Privacy Policy, Return Policy, etc. may be required for your site by government entities, vendors or licensing agencies.

**IT IS THE SOLE RESPONSIBILITY OF THE CLIENT TO DETERMINE WHETHER SUCH PAGES ARE REQUIRED.** It is advisable to consult an attorney to determine your responsibilities in this matter. Creation of the content for these legal pages is not included in the Proposal of Services for your new website unless specifically itemized. However, if you provide the content for these pages, we will typically add them at no additional cost.

If we provide any standardized privacy policies and terms of use, we do not guarantee that this language complies with any governing body's requirements. **YOU SHOULD HAVE ANY STANDARDIZED LANGUAGE REVIEWED BY YOUR ATTORNEY.**

**IT IS THE SOLE RESPONSIBILITY OF THE CLIENT TO INFORM US THAT YOUR WEBSITE MUST BE COMPLIANT WITH ANY REGULATORY BODY** such as but not limited to the EU's General Data Protection Regulation (GDPR) or the California Online Privacy Protection Act (CalOPPA). Compliance with these, or any other regulations or laws, must be included as a line item in the Scope of Work and accepted by you to be a part of the contract between the parties.

## Email Deliverability

Occasionally, your website will send email when certain events occur such as the completion of a contact form, sale of a product, update/reset of a user's password, etc. These emails that are automatically generated by the WordPress system are often flagged as spam (or not delivered at all) by email providers like Google/Gmail, Microsoft, Yahoo and others.

**SINCE WE CANNOT CONTROL THE RECEIPT OF EMAIL, WE CANNOT BE HELD RESPONSIBLE FOR ANY EMAILS THAT WERE NOT DELIVERED TO THE CLIENT FOR ANY REASON.**

**IT IS THE CLIENT'S RESPONSIBILITY TO REGULARLY CHECK SPAM FOLDERS AND WEBSITE FORM AND ORDER INTERFACES FOR ANY NOTIFICATIONS THAT WERE NOT DELIVERED TO THE CLIENT'S INBOX.**

## Email Service

**WE DO NOT PROVIDE OR SUPPORT EMAIL SERVICE TO CLIENTS.** We recommend consulting with an IT Professional about implementing professional email service from a reliable vendor.

## Domain Names

Registering a domain name for your website and paying the accompanying annual registration fee is your responsibility. We can assist in the process of registration and connecting your domain name to the website if you desire. You can purchase your domain name for multiple years, or renew it annually at your discretion.

**It is your responsibility to ensure that the credit card the domain registrar has on file for your domain registration is current for rebilling.**

**WE ARE NOT RESPONSIBLE FOR SUSPENSION OR LOSS OF DOMAIN NAMES BECAUSE YOUR CARD COULD NOT BE BILLED OR FOR ANY OTHER REASON.** If you lose access to your domain name through non-payment, suspension or any other reason, your website will no longer be accessible or viewable by the public. Work needed as a result of domain expiration is billable at our current hourly rate.

## Testimonials, Marketing and Attribution Links

We reserve the right to use your project as an example in our promotional materials including but not limited to case studies, web pages, blog posts, social media posts, magazine articles, and videos. We will place an attribution link in the footer of your website that links back to our home page. At the end of your project, we may also ask you for a quote describing your experience working with us. We may also ask you to be a reference should any future clients desire to speak with people we've worked with in the past.

## Our Employees and Contractors

From time to time we may utilize employees and independent contractors to work on your project. Some of these employees and contractors may work outside the United States. **You agree not to directly contact or solicit any of our employees and contractors for employment or contract work of any kind.**

## Disclosure to Law Enforcement

We will disclose information about our clients to law enforcement agencies without further consent or notification to the client upon lawful request from such agencies. We will cooperate fully with the legal requests of law enforcement agencies.

## Indemnification

The Client agrees to indemnify and hold harmless the Company, its subsidiaries, contractors, employees and affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of, or related to the Agreement, Client's use of the Services, breach of any confidentiality obligation or any alleged infringement of any trademark, copyright, patent or other intellectual property right and will reimburse an Indemnified Party for all legal and other expenses, including reasonable attorneys' fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any Loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

## Choice of Law and Forum

This Agreement, and any related Statements of Work, shall be construed in accordance with, and governed by, the laws of the State of Arizona without regards to Conflict of Law principles.

In the event of any dispute or disagreement with respect to the meaning, effect or interpretation of this Agreement or in the event of a claimed breach of this Agreement, the parties hereto agree that such dispute shall be determined through mediation. The parties will mutually select a mediator and share the cost of mediation equally. If the parties cannot agree upon a mediator then each party shall select a mediator and those mediators shall, independent of party input or control, select a mediator to mediate the dispute. Unless otherwise mutually agreed, the location of the mediation will be in Maricopa County, Arizona. The parties agree to cooperate fully with the mediator in good faith in order to reach a mutually satisfactory resolution of the dispute.

If the dispute is not resolved within 60 days after it is referred to the mediator, either party has the option to litigate the dispute in a court of law located in Maricopa County, Arizona.

## Refusal or Discontinuation of Service

We reserve the right to refuse, restrict or terminate service to any client for any reason.

## Disclaimer of Warranty

We will perform our work in accordance with good industry practices and at the standard expected from a suitably qualified person with relevant experience. We cannot guarantee that our work will be error-free and so we cannot be liable to you or any third-party for damages, including lost profits, lost savings or other incidental, consequential or special damages, even if you've advised us of them.

**THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.**

**WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT SERVER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL.**

## Limitation of Damages or Liability

**IN NO EVENT WILL THE COLLECTIVE LIABILITY OF THE COMPANY, ITS AFFILIATES AND ITS LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS AND DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, FOR HARM CAUSED BY OR RELATED TO THE CUSTOMER'S SERVICES OR INABILITY TO UTILIZE THE SERVICES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.**

**THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.**

**NOTWITHSTANDING ANYTHING ELSE IN THIS MASTER SERVICES AGREEMENT, THE MAXIMUM AGGREGATE LIABILITY OF THE COMPANY ANY OF ITS EMPLOYEES, AGENTS, CONTRACTORS OR AFFILIATES, UNDER ANY THEORY OF LAW SHOULD NOT EXCEED THE AMOUNT OF FEES IT HAS COLLECTED ON THE CUSTOMER'S ACCOUNT IN THE LAST SIX MONTHS.**

## Severability

No part of this Agreement will be affected if any other part of it is held unenforceable or invalid.

## Headings

The headings in this Agreement are inserted for convenience only and are not a part of this Agreement.

## Entire Agreement

This Agreement, and any Proposals of Service attached, constitute the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and supersedes any and all prior agreements and understandings relating to the subject matter hereof. This Agreement may not be waived, assigned, extended, amended, supplemented or modified orally, but only by a written instrument signed by the party against whom enforcement of any such waiver, assignment, extension, amendment, supplement or modification is sought.

## Modifications

This Agreement may not be changed or modified except in writing signed by the parties.

## Construction

The parties acknowledge and agree that they have read, understood and have actively negotiated the terms of this Agreement, participated in its drafting and have been represented by legal counsel. Therefore, this Agreement shall not be deemed to be the product of either party and shall not be enforced or interpreted any more stringently or strictly against either party.

## Assignability

Neither the Company nor the Client may assign this Agreement without the prior consent of the other.

## Agreement

Please sign below signifying that:

- You have read, understood, and agreed to this Master Services Agreement
- That this Master Services Agreement and the Proposal of Services documents comprise our entire agreement.
- That you agree that the two documents above govern your working relationship with us.

MdO Media, LLC

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Daniel Montes de Oca, Owner

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Date

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Client's Signature

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Client's Printed Name

Business Name

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Date

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