

# Alaska Web Dynamics, LLC

## Internet Services Agreement

This Internet Services Agreement (herein the Agreement) is entered into between Alaska Web Dynamics LLC (herein AWD), and \_\_\_\_\_ (herein the Client).

This Agreement will remain in place until cancelled under the terms of this Agreement, or modified by a subsequent agreement.

### 1. Services Provided

AWD is in the business of developing, modifying, hosting, and promoting web sites, as well as providing consulting services with respect to the Internet. In accordance with the terms and conditions of this Agreement, Client has requested that AWD provide some or all of these services in exchange for consideration. Services and corresponding payment shall be authorized by Client in the following manner.

#### 1.1. Defined Projects & Services

Projects for which the parties agree that a detailed, written Scope of Work is necessary shall receive a written proposed price quote from AWD. This proposal shall be approved by Client prior to commencement of work.

#### 1.2. Undefined Projects & Services

Client projects for which there is not a detailed, written scope of work shall be billed as time is incurred.

#### 1.3. Scheduled Support Services

Reoccurring support, maintenance, and/or usage fees shall be authorized in writing by Client prior to commencement of the particular service, and shall continue on the agreed schedule until such services are cancelled in writing by Client.

#### 1.4. Unscheduled Support Services

Periodic requests for support services shall be verbally authorized by Client prior to commencement of work. Communications initiated by Client, or communications initiated by AWD necessary for the ongoing execution of projects or scheduled services shall not require prior authorization by Client, and shall be billed accordingly in 15 minute increments.

### 2.0 Payment for Services

AWD is due payment for services as follows.

#### 2.1. Project Payments

If this Agreement is received in conjunction with a specific project Proposal, AWD shall invoice Client monthly in an amount proportional to the completion of that project. A deposit may be required, as specified in the Proposal, prior to commencement of work under the Proposal.

#### 2.2. Scheduled Support Fees

AWD shall invoice Client monthly for agreed upon support services according to the rate schedule in Attachment A of this agreement, subject to other non-expired written agreements in effect.

#### 2.3. Usage Fees

AWD shall invoice Client quarterly, in advance, for usage fees relating to usage of AWD hardware facilities and/or AWD software applications according to the rate schedule in Attachment A of this agreement, unless superceded by another written agreement between the parties.

#### 2.4. Other Fees

All other services, for which no written agreement exists, shall be invoiced monthly by AWD according to the rate schedule in Section A of this agreement.

#### 2.5. Expense Reimbursement

Client shall reimburse AWD for all expenses reasonably incurred in rendering services to Client. Such expenses shall include, without limitation, reasonable travel expenses (including transportation, lodging, and meals) and other expenses as required in the production, procurement, licensing and/or promotion of the web site and associated contents. Travel and other expenses shall be approved in advance by Client before they are incurred. AWD shall invoice such reimbursable expenses monthly.

#### 2.6. Invoice Payments

Client shall pay all invoices within 30 days after the date of invoice, unless otherwise specified in Exhibit A. Interest may be charged by AWD on overdue accounts at the rate of one and one-half percent (1 ½%) per month or the maximum amount allowed by law, whichever is less, commencing with the date payment was due.

#### 2.7. Payment by Credit Card

Reoccurring scheduled services and usage fees may, at Client option, be paid by credit card upon the date such services or fees would normally be invoiced. To activate payment by credit card, a Client must have a valid credit card authorization on file with AWD at least 10 days prior to the normal date of invoice.

#### 2.8. Rate Increases

Hourly rates and usage fees are subject to change without notice; however in no case will such rates and fees increase by more than ten percent (10%) annually under this Agreement. Services offered on a complementary basis, as a limited time offer, may be charged as shown in Attachment A upon expiration of offer.

### 3. Client Responsibilities

#### 3.1. Designation of Project Manager

Client shall designate an employee, agent or responsible party who shall be assigned the primary responsibility for communicating with and providing necessary assistance to AWD during the term of this Agreement. This individual shall have

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authority to authorize work by AWD, and shall be identified at the time of execution of this Agreement.

### 3.2. Client Responsibilities

In addition to the obligations of Client as otherwise specified in this Agreement, Client shall be solely responsible for the following:

- (a) Select specific products and services to achieve Client's intended results;
- (b) Provide accurate text, graphics, photographs, pictures, animation as necessary for AWD to perform the services under this Agreement.
- (c) Accept responsibility for any inaccuracies in information, data loss, security breach, and viruses experienced as a result of Client's use of the Services;
- (d) Utilize services in a manner consistent with all applicable laws and regulations; and
- (e) Defend, release, indemnify and hold harmless AWD from and against all claims, suits, losses, liabilities, obligations, demands, damages, expenses, and attorney's fees which directly or indirectly arise in connection with the responsibilities of Client in this Section 3.2.

### 4. Use of Third Party Consultants

AWD may retain third parties to furnish services to it in connection with the provision of services.

### 5. Ownership & License

#### 5.1. Ownership by Client

All data, documents, images, and other works of authorship (collectively known as the Client Works), as provided by Client or its licensors, shall remain the property of Client and its licensors. Client hereby grants to AWD the nonexclusive rights and licenses to these client works that are necessary or appropriate to perform the services under the Agreement. All data, documents, images, and other works of authorship produced as a direct result of services (collectively known as the Client Product) shall become the property of the Client.

#### 5.2. Ownership by AWD

Excluding the Client Works and Client Product, all documents, text, photographs, video, pictures, animation, sound recordings, computer programs, and works of authorship (collectively known as the AWD Works), as provided, created or produced by AWD or its licensors shall remain the property of AWD and its licensors. AWD Works specifically include, but are not limited to, data structures, custom software, licensed applications, and other computer programming that is developed, held and maintained for the benefit of multiple AWD clients.

#### 5.3. License

AWD grants the Client a nontransferable, nonexclusive license to use the AWD Works in object code form only, in conjunction with this Agreement.

#### 5.4. Proprietary Rights

This Agreement transfers to Client neither title, ownership nor any proprietary or intellectual property rights to the AWD Works.

#### 5.5. License Restrictions

Client agrees that it shall not itself, or through any parent, subsidiary, affiliate, employee, officer, director, agent or other third party: (a) copy the AWD Works except as expressly allowed under this Agreement, (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive source code from the AWD Works; or (c) write or develop any derivative software or any other software program based upon the AWD Works.

#### 5.6. Availability of AWD Works

If AWD is no longer able to maintain AWD Works due to death, injury, or retirement of key AWD personnel, or dissolution of the AWD business, then directly related AWD Works will be transferred to Client under a limited use license. Specifically covered by this provision are data structures, layered graphic files and custom programming source code as needed to maintain the Client web site going forward.

### 6. Warranties

#### 6.1. Warranties of Client

Client represents and warrants that: (a) Client has the power and authority to enter into this Agreement; (b) Client is the owner or licensee of all rights necessary and appropriate to grant the licenses and rights hereunder with respect to the Client Works and any portions thereof, including, but not limited to, documents, text, photographs, video, pictures, animation, and sound recordings (c) the Client Works are original except for material in the public domain and such excerpts from other works as may be included within the written license to Client of the copyright owners; (d) the Client Works do not contain any libelous material; (e) the Client Works do not infringe any trade name, trademark, trade secret, or copyright; (f) the Client Works do not invade or violate any right of privacy, personal or proprietary right, or other common law or statutory right; (g) the Client Works do not violate any federal or state statutory provisions relating to obscene or pornographic material; and (h) Client shall not utilize, either directly or indirectly, any web services provided by AWD for the purpose of mass distributing unsolicited e-mails (spam). Client agrees to defend, indemnify, and hold harmless AWD, its officers, directors, and employees for any losses, costs, damages, liabilities, and expenses (including attorneys' fees and court costs) arising out of any claims, suits or proceedings alleging facts that would be a breach of these warranties.

#### 6.2. Warranties of AWD

(a) AWD represents and warrants that: (i) AWD has the power and authority to enter into this Agreement; (ii) AWD is the owner or licensee of all rights necessary and appropriate to grant the licenses and rights hereunder with respect to the AWD Works and any portions thereof, including, but not limited to, documents, text, photographs, video, pictures, animation, and sound recordings; (iii) the AWD Works are original except for material in the public domain and such excerpts from other works as may be included within the written license to AWD of the copyright

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owners; (iv) the AWD Works do not contain any libelous material; (v) the AWD Works do not infringe any trade name, trademark, trade secret, or copyright; and (vi) the AWD Works do not invade or violate any right of privacy, personal or proprietary right, or other common law or statutory right. AWD agrees to defend, indemnify, and hold harmless Client, its officers, directors, and employees for any losses, costs, damages, liabilities, and expenses (including attorneys' fees and court costs) arising out of any claims, suits or proceedings alleging facts that would be a breach of these warranties.

### 7. Limitation of Liability

Under no circumstance shall AWD be liable to Client for any indirect, incidental, or consequential damages or lost profits arising out of the services and/or products as provided under this agreement. AWD liability to Client for actual damages for any cause whatsoever, regardless of the form of the action, shall be strictly limited to a maximum of the fees paid for the prior twelve months for the particular associated services relating to the damages.

### 8. Limitations of Service

Unfortunately, computers need routine maintenance and sometimes break down. Additionally, AWD cannot control the timing or volume of attempts to access AWD servers utilized in providing any hosting services. As a result, AWD does not guarantee that Client or any third parties shall be able to access any web sites created by AWD at any particular time. Hosting services are provided on an "as-is, as-available" basis, subject to reasonable standards of maintenance and support as is the norm in the hosting industry.

In addition, AWD has no control over search engine listings or the accessibility of any web sites via the search engines. Therefore, AWD does not guarantee positive search engine ranking results as a result of search engine services provided. AWD accepts no liability for falling search engine rankings or the disappearance of Client web sites from any search engines.

### 9. Nondisclosure and Confidentiality

- (a) Each party hereunder may disclose to the other party certain Trade Secrets and Confidential Information of such party or of such party's associated companies, suppliers, or Clients. For purposes of this Agreement, "Trade Secrets" means information which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; "Confidential Information" means information, other than Trade Secrets, that is of value to its owner and is treated as confidential; "Proprietary Information" means Trade Secrets and Confidential Information; "Owner" refers to the party disclosing Proprietary Information hereunder, whether such party is AWD or Client and whether such disclosure is directly from Owner or through Owner's employees or agents; and "Recipient" refers to the party receiving any Proprietary Information hereunder, whether such party is AWD or Client and whether such disclosure received directly or through Recipient's employees or agents.

- (b) Recipient agrees to hold the Proprietary Information disclosed by Owner in strictest confidence and not to, directly or indirectly, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Proprietary Information disclosed by Owner to any third party, or utilize the Proprietary Information disclosed by Owner for any purpose whatsoever other than as expressly contemplated by this Agreement. With regard to the Trade Secrets, the obligations in this Section 10 shall continue for so long as such information constitutes a trade secret under applicable law. With regard to the Confidential Information, the obligations in this Section 10 shall continue for the term of this Agreement and for a period of five years thereafter. The foregoing obligations shall not apply if and to the extent that:

- (i) The information communicated was already known to Recipient, without obligations to keep such information confidential, at the time of Recipient's receipt from Owner;
- (ii) The information communicated was received by Recipient in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential; or
- (iii) The information communicated was publicly known at the time of Recipient's receipt from Owner or has become publicly known other than by a breach of this Agreement.

### 10. Termination

- (a) This Agreement shall be effective as of the date it is executed by Client and AWD and shall remain in force until such time as AWD and Client have each performed all of their respective obligations hereunder, unless otherwise terminated by either party as provided herein.
- (b) Either party may terminate this Agreement upon twenty (20) days written notice to the other party. In addition, AWD shall upon seven (7) days written notice to the Client, have the right to stop service in the event Client fails to make timely payment for such service or violates any of the warranties specified in paragraph 7.1 above. Upon receipt of notice of such termination, AWD shall invoice Client for services performed through the termination date. If a particular project's services are tied to a set price quote, Client shall be billed for a pro rata portion of the amount of the services performed up until the termination date. Upon payment by Client of all invoices, AWD shall collect and deliver to Client whatever work product and deliverables then exist in a manner readable by Client.

### 11. Use of Product by AWD

Client grants to AWD the right to disclose the existence of the Client web site for the purposes of performing under this Agreement and in the marketing of AWD services to others, as well as to install brief descriptive links at the bottom of Client site pages crediting AWD for development and marketing services provided.

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## 12. AWD Identities

AWD does business in the State of Alaska under various DBA's including alaskacms.com, alaskaseo.com, and travalaska.com.

## 13. Entire Agreement

This Agreement supersedes and cancels any previous understandings, representations, or agreements between the parties relating to the subject matter hereof, and expresses the complete and final understanding with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous written and oral agreements and communications relating hereto.

## 14. Assignment

Client may not assign, transfer or pledge this Agreement, or any interest, license or rights herein, in any manner, without the prior written consent of AWD.

## 15. Independent Principals

AWD and Client are independent principals in all relationships and actions under and contemplated by this Agreement. This Agreement shall not be construed to create any employment relationship, partnership, joint venture, or agency relationship between the parties or to authorize any party to enter into any commitment or agreement binding on the other.

## 16. Non-Waiver

Any failure by either party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition.

## 17. Severability

If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement shall continue in full force and effect.

## 18. Force Majeure

Neither party shall be in default by reason of any failure in performance of this Agreement if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of such party, including but not limited to, default by subcontractors or suppliers, acts of God or of the public enemy, U.S. or foreign governmental acts in either a sovereign or contractual capacity, labor, fire, flood, epidemic, restrictions, strikes, and/or freight embargoes.

## 19. Notice

All communications between the parties which are required or permitted to be in writing shall be sent by hand delivery, with receipt obtained, or by prepaid, first class U.S. postal service mail, certified return receipt requested, or by facsimile with confirmation by first class U.S. postal service and sent to the address specified in the first paragraph of this Agreement. By written communication, either party may designate a different address for purposes hereof.

## 20. Governing Law

This Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of Alaska without regard to its rules governing conflicts of law. The parties consent to the exclusive jurisdiction of the appropriate state and federal courts for Alaska in all disputes or claims relating to this Agreement.

## 21. Miscellaneous

This Agreement shall be binding upon and inure to the benefit of each party and their respective heirs, successors and assigns.

## Agreed:

\_\_\_\_\_  
Justin Ripley, Owner  
Alaska Web Dynamics, LLC  
P.O. Box 221893, Anchorage, AK 99522  
329 F Street, #206, Anchorage, AK 99501  
Phone/Fax: 907.569.9010, 907.569.9110  
Email: justin@dynamalaska.com  
Cell: 907.240.7565

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: \_\_\_\_\_ Date \_\_\_\_\_  
Organization: \_\_\_\_\_  
Billing Address: \_\_\_\_\_  
Contact Name/Title: \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Non-profit Status: \_\_\_\_\_

**Alaska Web Dynamics, LLC**  
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**Credit Card Authorization:** I, the Visa or Mastercard holder, authorize Alaska Web Dynamics LLC to collect payment via the following credit card for any reoccurring charges incurred by this Agreement.

<b>Signature:</b>	
<b>Card Number:</b>	
<b>Cardholder Name:</b>	
<b>Billing Address:</b>	
<b>Expiration Date:</b>	