



## WEBSITE DESIGN & MAINTENANCE AGREEMENT

This Website Maintenance Agreement (the “Agreement”) is entered into by and between Michele Talbot, owner MTC Web, an independent contractor (the “Provider”), and you (the “Company,” and together with the Provider, the “Parties”) and is made effective as of the date of electronic acceptance.

### RECITALS

**WHEREAS**, the Provider is engaged in the business of maintaining and updating websites to keep them current; and

**WHEREAS**, the Company wishes to engage the Provider as an independent contractor for the Company for the purpose of providing maintenance services to the Company’s website (the “Website”) to keep it up to date and functional on the terms and conditions set forth below; and

**WHEREAS**, the Provider wishes to provide maintenance services to the Website and agrees to do so under the terms and conditions of this Agreement; and

**WHEREAS**, each Party is duly authorized and capable of entering into this Agreement.

**NOW THEREFORE**, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties hereby agree as follows:

#### 1. PURPOSE.

The Company hereby engages the Provider, and the Provider hereby accepts such engagement, to perform the services described in Exhibit A (emailed separately) and made a part hereof, in connection with the maintenance of the Website (the “Services”).

#### 2. COMPENSATION.

The total compensation for the Services shall be as set forth in Exhibit A hereto. Payments shall be made according to the payment schedule set forth in Exhibit A hereto.

#### 3. TERM.

This Agreement is effective as of the Effective Date and shall continue in force, unless otherwise terminated in accordance with the provisions of Section 4 of this Agreement, for a period of 12 months (the “Term”). The Agreement will renew automatically on an annual basis thereafter unless either Party provides thirty (30) days written notice of its intent not to renew.



#### **4. TERMINATION.**

(a) Types of Termination. This Agreement may be terminated:

- (i) By either Party on provision of thirty (30) days' written notice to the other Party.
- (ii) By either Party for a material breach of any provision of this Agreement by the other Party, if the other Party's material breach is not cured within thirty (30) days of receipt of written notice thereof.
- (iii) By the Company at any time and without prior notice, if the Provider is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directives of the Company, or is guilty of serious misconduct in connection with performance under this Agreement.

(b) Responsibilities after Termination. Following the termination of this Agreement for any reason, the Company shall promptly pay the Provider according to the terms of Exhibit A for Services rendered before the effective date of the termination (the "Termination Date"). The Provider acknowledges and agrees that no other compensation, of any nature or type, shall be payable hereunder following the termination of this Agreement.

#### **5. RESPONSIBILITIES.**

(a) Of the Provider. The Provider agrees to do each of the following:

- (i) Monitor the overall performance of the Website for functionality, and maintain the Website as detailed in Exhibit A to this Agreement.
- (ii) Devote as much productive time, energy, and ability to the performance of its duties hereunder as may be necessary to provide the required Services in a timely and productive manner.
- (iii) Perform the Services in a workmanlike manner and with professional diligence and skill, using fully trained, skilled, competent, and experienced personnel.
- (iv) Provide Services that are satisfactory and acceptable to the Company and take every step to ensure the Website remains functional and operating.
- (v) Maintain password secrecy and notify the Company immediately of any loss or theft of passwords or if the confidentiality of any password has been compromised.

(b) Of the Company. The Company agrees to do each of the following:

- (i) Engage the Provider to maintain its Website as further detailed in Exhibit A to this Agreement.
- (ii) Provide all assistance and cooperation to the Provider in order to enable the Provider to ensure the Website remains functional and up to date.
- (iii) Provide initial information and supply all materials comprising the then-current Website within thirty (30) days of the agreed upon start of development date.



(iv) Monitor the content of the Website for items that need to be corrected or updated and provide such updates or corrections to the Provider as detailed in Section 8.

(v) Maintain password secrecy and notify the Provider immediately of any loss or theft of passwords or if the confidentiality of any password has been compromised.

## **6. CONFIDENTIAL INFORMATION.**

The Provider agrees, during the Term and thereafter, to hold in strictest confidence and not to use, except for the benefit of the Company or as required by law, or to disclose to any person, firm, or corporation without the prior written authorization of the Company, any Confidential Information of the Company. "Confidential Information" means any of the Company's proprietary information, technical data, trade secrets, or know-how, including, but not limited to, research, product plans, products, services, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, or other business information disclosed to the Provider by the Company either directly or indirectly. The Provider may use the Confidential Information to the extent necessary for negotiations, discussions, and consultations with the Company's personnel or authorized representatives or for any other purpose the Company may hereafter authorize in writing. At the request of the Company, the Provider must promptly return all copies of Confidential Information received from the Company, and must promptly destroy all other Confidential Information prepared by the Provider, including, without limitation, any notes, reports, or other documents.

## **7. PARTIES' REPRESENTATIONS AND WARRANTIES.**

(a) The Parties each represent and warrant as follows:

(i) Each Party has the full power, authority, and right to perform its obligations under the Agreement.

(ii) This Agreement is a legal, valid, and binding obligation of each Party, enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditors' rights generally and equitable remedies).

(iii) Entering into this Agreement will not violate the charter or bylaws of either Party or any material contract to which that Party is also a party.

(b) The Provider hereby represents and warrants as follows:

(i) The Provider has the sole right to control and direct the means, details, manner, and method by which the Services required by this Agreement will be performed.

(ii) The Provider has the experience and ability to perform the Services required by this Agreement.

(iii) The Provider has the right to perform the Services required by this Agreement at any place or location, and at such times as the Provider shall determine.



(iv) The Services shall be performed in accordance with and shall not violate any applicable laws, rules, or regulations, and the Provider shall obtain all permits or permissions required to comply with such laws, rules, or regulations.

(v) The Services required by this Agreement shall be performed by the Provider or the Provider's staff, and the Company shall not be required to hire, supervise, or pay any assistants to help the Provider perform such Services.

(vi) The Provider is responsible for paying all ordinary and necessary expenses of its staff.

(c) The Company hereby represents and warrants as follows:

(i) The Company will make timely payments of amounts earned by the Provider under this Agreement and as detailed in Exhibit A hereto.

(ii) The Company shall notify the Provider of any changes to its procedures affecting the Provider's obligations under this Agreement at least seven (7) days prior to implementing such changes.

(iii) The Company shall provide such other assistance to the Provider as it deems reasonable and appropriate.

## **8. MAINTENANCE REQUESTS.**

(a) Procedure for Request. The Company must submit all requests for maintenance (each, a "Company Maintenance Request") to the Provider via email. A Company Maintenance Request must (i) provide the Provider with clear and specific instructions, (ii) be reasonable in nature, and (iii) be within the scope of the Services. All materials transferred to the Provider in connection with a Company Maintenance Request must be in acceptable electronic format (email, Word .doc, Excel .xls, PDF, Graphic files - .jpg, .gif, .png., etc.)

(b) Review and Inspection. The Provider will promptly notify the Company when the work required under a Company Maintenance Request is complete so that the Company can review and inspect such work to ensure its accuracy. The Company will notify the Provider of any errors, omissions, and other issues via email or telephone as soon as practicable following discovery. The Provider will use best efforts to resolve any such errors, omissions, and issues as quickly as possible.

## **9. WEBSITE PROBLEMS; SECURITY.**

The Provider must use commercially reasonable efforts to minimize disruption of the Website and to schedule Website maintenance in accordance with Exhibit A hereto.

(a) In the event of a problem with the Website, the Provider agrees to provide the following levels of support:

(i) Urgent Problem. If the Website suffers from an urgent problem, including, but not limited to, the Website becoming unusable, the Provider understands that time is of the essence and will use best efforts to correct the problem as soon as possible. The



Provider will continue to update the Company of the status of the problem until the problem is resolved, at which time, the Provider will immediately notify the Company that the problem has been corrected.

If the Provider becomes aware of an urgent problem before the Company becomes aware of it, the Provider will immediately notify the Company of such problem.

(ii) Non-Urgent Problem. If the Website suffers from a non-urgent problem, the Provider understands that time is of the essence and will use best efforts to correct the problem as soon as possible. The Provider will continue to update the Company of the status of the problem until the problem is resolved, at which time, the Provider will promptly notify the Company during normal business hours that the problem has been corrected.

If the Provider becomes aware of a non-urgent problem before the Company becomes aware of it, the Provider will promptly notify the Company during normal business hours of such problem.

(iii) Company has access to GoDaddy's 24/7 customer support for domain issues, which is free of charge. See Exhibit A for customer service information.

(b) Website Back-up. The Provider must back-up the Website as set forth on Exhibit A hereto.

(c) Security. The Provider must take commercially reasonable steps to prevent unauthorized access to the Website and any of the Company's Confidential Information, including, but not limited to, any data collected on the Website.

## **10. NATURE OF RELATIONSHIP.**

(a) Independent Contractor Status. The Provider agrees to perform the Services hereunder solely as an independent contractor. The Parties agree that nothing in this Agreement shall be construed as creating a joint venture, partnership, franchise, agency, employer/employee, or similar relationship between the Parties, or as authorizing either Party to act as the agent of the other. The Provider is and will remain an independent contractor in its relationship to the Company. The Company shall not be responsible for withholding taxes with respect to the Provider's compensation hereunder. The Provider shall have no claim against the Company hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Nothing in this Agreement shall create any obligation between either Party and a third party.

(b) Indemnification of Company by Provider. The Company has entered into this Agreement in reliance on information provided by the Provider, including the Provider's express representation that it is an independent contractor and in compliance with all applicable laws related to work as an independent contractor. If any regulatory body or court of competent jurisdiction finds that the Provider is not an independent contractor and/or is not in compliance with applicable laws related to work as an independent contractor, based on



the Provider's own actions, the Provider shall assume full responsibility and liability for all taxes, assessments, and penalties imposed on or against the Provider and/or the Company resulting from such contrary interpretation, including but not limited to taxes, assessments, and penalties that would have been deducted from the Provider's earnings had the Provider been on the Company's payroll and employed as an employee of the Company.

## **11. NO CONFLICT OF INTEREST; OTHER ACTIVITIES**

The Provider hereby warrants to the Company that, to the best of its knowledge, it is not currently obliged under any existing contract or other duty that conflicts with or is inconsistent with this Agreement. During the Term, the Provider is free to engage in other website maintenance activities; provided, however, the Provider shall not accept work, enter into contracts, or accept obligations inconsistent or incompatible with the Provider's obligations or the scope of Services to be rendered for the Company pursuant to this Agreement.

## **12. INDEMNIFICATION.**

(a) Of Company by Provider. The Provider shall indemnify and hold harmless the Company and its officers, members, managers, employees, agents, contractors, sublicensees, affiliates, subsidiaries, successors, and assigns from and against any and all damages, liabilities, costs, expenses, claims, and/or judgments, including, without limitation, reasonable attorneys' fees and disbursements (collectively, the "Claims") that any of them may suffer from or incur and that arise or result primarily from (i) any gross negligence or willful misconduct of the Provider arising from or connected with the Provider's carrying out of its duties under this Agreement, or (ii) the Provider's breach of any of its obligations, agreements, or duties under this Agreement.

(b) Of Provider by Company. The Company shall indemnify and hold harmless the Provider from and against all Claims that it may suffer from or incur and that arise or result primarily from (i) its maintenance or usage of the Company's Website in connection with the carrying out of its duties under this Agreement or (ii) the Company's breach of any of its obligations, agreements, or duties under this Agreement; provided, however, none of the foregoing result from or arise out of the actions or inactions of the Provider.

## **13. INTELLECTUAL PROPERTY.**

(a) No Intellectual Property Infringement by Provider. The Provider hereby represents and warrants that the use and proposed use of any software, programs, or applications to maintain, repair, or update the Website does not and shall not infringe, and the Provider has not received any notice, complaint, threat, or claim alleging infringement of, any trademark, copyright, patent, trade secrets, industrial design, or other rights of any third party. To the extent the software, programs, or applications used to maintain, repair or update the Website infringe on the rights of any such third party, the Provider shall obtain a license or consent from such third party permitting the use of such items.



(b) No Intellectual Property Infringement by Company. The Company represents to the Provider and unconditionally guarantees that all text, graphics, photos, designs, trademarks, hyperlinks, or other content on the Website are owned by the Company, or that the Company has permission from the rightful owner to use each of these elements, and will hold harmless, protect, indemnify, and defend the Provider and its subcontractors from any liability (including attorneys' fees and court costs), including any claim or suit, threatened or actual, arising from the use of such elements furnished by the Company. The Company further represents to the Provider that its domain names or URL listing does not infringe, dilute, or otherwise violate third party rights or trademarks.

(c) Company Property Rights. All text, graphics, photos, designs, trademarks, hyperlinks, or other content on the Website are the property of the Company and the Provider has no ownership rights or other intellectual property rights to such items.

(d) Nature of Website Content. The Company represents that the content of the Website is not defamatory or obscene, does not constitute false advertising, and does not violate any applicable laws or regulations. The Provider has the right, but not the duty, to review and monitor all Website content submitted pursuant to a Company Maintenance Request and to reject or remove any such content from the Website that the Provider believes in good faith breaches the Company's representations made under this Agreement. The Provider does not accept responsibility or liability for any errors, inaccuracies, or unsuitable content on the Website.

#### **14. LAWS AFFECTING ELECTRONIC COMMERCE.**

From time to time governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. The Company agrees that it is solely responsible for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend the Provider and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the Company's exercise of Internet electronic commerce.

#### **15. AMENDMENTS.**

No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by both Parties.

#### **16. ASSIGNMENT.**

The Company may assign this Agreement freely, in whole or in part. The Provider may not, without the written consent of the Company, assign, subcontract, or delegate its obligations under this Agreement, except that the Provider may transfer the right to receive any amounts that may be payable to it for its Services under this Agreement, which transfer will be effective only after receipt by the Company of written notice of such assignment or transfer.



## **17. SUCCESSORS AND ASSIGNS.**

All references in this Agreement to the Parties shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the Parties.

## **18. FORCE MAJEURE.**

A Party shall be not be considered in breach of or in default under this Agreement on account of, and shall not be liable to the other Party for, any delay or failure to perform its obligations hereunder by reason of fire, earthquake, flood, explosion, strike, riot, war, terrorism, or similar event beyond that Party's reasonable control (each a "Force Majeure Event"); provided, however, if a Force Majeure Event occurs, the affected Party shall, as soon as practicable:

- (a) notify the other Party of the Force Majeure Event and its impact on performance under this Agreement; and
- (b) use reasonable efforts to resolve any issues resulting from the Force Majeure Event and perform its obligations hereunder.

## **19. NO IMPLIED WAIVER.**

The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

## **20. NOTICE.**

Any notice or other communication provided for herein or given hereunder to a Party hereto shall be in writing and shall be given in person, by overnight courier, or by mail (registered or certified mail, postage prepaid, return-receipt requested) to the respective Parties as follows:

If to the Provider:

Michele Talbot, MTC Web  
1611-A S. Melrose Drive #112  
Vista, CA 92081

If to the Company:

See Exhibit A for Company contact and address.





## **21. GOVERNING LAW.**

This Agreement shall be governed by the laws of the state of California. In the event that litigation results from or arises out of this Agreement or the performance thereof, the Parties agree to reimburse the prevailing Party's reasonable attorneys' fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing Party may be entitled.

## **22. COUNTERPARTS/ELECTRONIC SIGNATURES.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

## **23. SEVERABILITY.**

Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.

## **24. ADDITIONAL AGREEMENTS.**

During the website design and maintenance process The Provider will need to accept various legal agreements on the Company's behalf. These include, *but are not limited to*, the below agreements.

### **Relating to Domains and Other Godaddy Products:**

The Provider will be accepting [GoDaddy's Legal Agreements and Policies](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the GoDaddy products used in developing and maintaining the website.

The Company is advised to read all agreements, which can be found at [www.godaddy.com/legal/agreements](http://www.godaddy.com/legal/agreements)

The Provider will be accepting all Easywebsitebuilder.co (My Godaddy Reseller Website) Agreements which can be found at:

[Change of Registrant Agreement](#)

[Domain Name Registration Agreement](#)

[Universal Terms of Service Agreement](#)



## **Relating to Website Builder**

### *Weebly Websites*

The Provider will be accepting [Weebly's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Weebly products used in developing and maintaining the website.

The Company is advised to read Weebly's Legal Agreements, which can be found on <https://www.weebly.com/terms-of-service#>.

### *Webflow Websites*

The Provider will be accepting [Webflow's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Webflow products used in developing and maintaining the website.

The Company is advised to read Webflow's Legal Agreements, which can be found on <https://webflow.com/legal/terms>

## **Relating to Online Store**

The Provider will be accepting [ECWID's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the ECWID products used in developing and maintaining the online store.

The Company is advised to read ECWID's Legal Agreements, which can be found at <https://www.ecwid.com/terms-of-service>

## **Relating to Google Services**

The Provider will be accepting Google's Legal Agreements on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Google products used in developing and maintaining the online store.

The Company is advised to read Google's Legal Agreements, which can be found at <https://policies.google.com/?hl=en-US>

## **Relating to Amazon Services**

The Provider will be accepting [Amazon's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Amazon products used in developing and maintaining the online store.

The Company is advised to read Amazon's Legal Agreements, which can be found at <https://www.amazon.com/gp/help/customer/display.html?nodeId=202140280>



### **Relating to Canva Services**

The Provider will be accepting [Canva's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Canva products used in developing and maintaining the online store.

The Company is advised to read Canva's Legal Agreements, which can be found at <https://www.canva.com/policies/>

### **Relating to Bigstock Photo Services**

The Provider will be accepting [Bigstock's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Bigstock products used in developing and maintaining the online store.

The Company is advised to read Bigstock's Legal Agreements, which can be found at <https://www.bigstockphoto.com/tos.html>

### **Relating to Synup Services**

The Provider will be accepting [Synup's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the Synup products used in developing and maintaining the online store.

The Company is advised to read Synup's Legal Agreements, which can be found at <https://www.synup.com/terms-and-conditions>.

### **Relating to IDX Broker Services**

The Provider will be accepting [IDX Broker's Legal Agreements](#) on the Company's behalf during the website design process. These agreements relate to the purchase and use of all of the IDX Broker's products used in developing and maintaining the online store.

The Company is advised to read IDX Broker's Legal Agreements, which can be found at <https://idxbroker.com/terms>

### **The Provider Privacy Policy**

The Company is advised to read MTC Web's Privacy Policy, which can be found on <https://www.mtcweb.co/privacy-policy.html>

## **25. PRIVACY.**

### **Privacy Policy Page on Company's Website**

The Provider recommends that the Company consult their legal counsel with respect to the language provided on their privacy pages. It is the Company's responsibility to uphold these privacy policies, and the Provider will not be held responsible for any violation of the privacy policy by the Company.



## **Cookie Policy on Website**

The use of cookies on a website may be subject to various international and local laws including, but not limited to, the EU's [General Data Protection Regulation \(GDPR\)](#) and the [California Consumer Privacy Act \(CCPA\)](#). It is the Company's responsibility to uphold policies regarding to cookies, and the Provider will not be held responsible for any violation of the cookie policy by the Company. The Provider can install a cookie banner on the Company's website (at the Company's request) to help the Company stay compliant with applicable laws.

## **26. ENTIRE AGREEMENT.**

This Agreement, together with [Exhibit A](#) hereto (which will be emailed to the Company separately), constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

## **27. HEADINGS.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

Last Revised 2-26-2024