



WEBSITE DEVELOPMENT AGREEMENT

THIS WEBSITE DEVELOPMENT AGREEMENT ("**AGREEMENT**") IS ENTERED AS OF THE DATE LAST EXECUTED ("**EFFECTIVE DATE**") BETWEEN JOBATORY, LLC ("**JOBATORY**"), A STATE OF CALIFORNIA LIMITED LIABILITY COMPANY, AND THE PARTY INDICATED ON THE SIGNATURE PAGE ("**CLIENT**"). CLIENT AND JOBATORY ARE REFERRED TO INDIVIDUALLY AS A "**PARTY**" AND COLLECTIVELY AS THE "**PARTIES**."

- 1. Engagement.** Client hereby engages Jobatory, and Jobatory accepts such engagement, to perform the website design and development services ("**Services**") described on any applicable invoice, statement of work, or other written format that may be agreed to from time to time between the Parties (collectively, a "**Statement of Work**" or "**SOW**"). Each SOW shall be subject to all of the terms and conditions contained in this Agreement, and is binding upon execution by each of the Parties and, upon execution, is hereby incorporated into this Agreement by reference.
- 2. Client Site.** Jobatory will provide the Services for Client according to the project plan specified in one or more applicable Statements of Work related to the design, development, and delivery of Client's website ("**Site**"). The Site will be delivered to Client in a timely and professional manner consistent with industry standards, in accordance with this Agreement, and any terms set forth in the applicable SOW ("**Requirements**").
- 3. Change Procedures.** If the Parties determine that a Statement of Work requires modification (for example, due to incorrect assumptions or changed Requirements), they will cooperate in good faith to execute a written agreement for such revised Requirements ("**Change Order**"). Changes to a Statement of Work may only be made pursuant to a Change Order and in a format suitable to both Parties and approved in writing. Client agrees that if Client requests additional Services beyond the scope of a Statement of Work, whether oral or in writing and such Services are performed by Jobatory, then Jobatory may invoice Client for the reasonable time and materials necessary to provide the additional Services.
- 4. Delivery and Testing.** Jobatory will deliver the final Site to Client according to the terms specified in an applicable SOW. Upon delivery, Client will have fourteen (14) days (or such other time specified in an applicable SOW) to review and test the Site ("**Evaluation Period**"). Client shall not make any changes to the Site during the Evaluation Period and shall notify Jobatory of any discrepancies or requested changes. After the Evaluation Period, or at any time once Client has made any changes to the Site, the Site will be deemed accepted, and Jobatory will have no further obligations related to the Site.
- 5. Updates.** During the development of the Site and during the Evaluation Period, Jobatory will be the exclusive provider of all updates, uploads, and maintenance of all files, pages, data, information, and materials transmitted to, from, or through the Site. Client may not make any changes or additions to the Site without the prior consent of Jobatory. Jobatory will have no responsibility or liability related to any changes or modifications to the Site made by Client or anyone other than Jobatory or Jobatory's authorized personnel. If Client makes modifications or changes to the Site that Jobatory needs to review or correct, or if the changes otherwise impact the performance of the Site, Jobatory may, at its discretion, make changes as necessary to restore the Site and will invoice Client for additional fees related to such Services.
- 6. Domain Name Registration.** Unless otherwise provided in an applicable Statement of Work, Jobatory will connect one (1) domain name provided by Client to the Site. Client must provide Jobatory with information and access as reasonably requested by Jobatory to connect the Site to the domain. Client is responsible for maintaining its applicable domain name(s), including managing DNS records and payment of all fees associated with domain registration and renewal.
- 7. Migration Services.** If specified in an applicable SOW, Jobatory may assist Client in migrating an existing Client website to the Site. Following the termination of this Agreement, Jobatory will provide reasonable assistance to Client for Client to assume the responsibilities of operating the Site, including website maintenance, hosting, and updates. Such migration services will not exceed thirty (30) days from the effective date of termination, after which time Jobatory will have no further obligation related to the Site.
- 8. Website Maintenance.** Jobatory will maintain the Site during the development phase through final delivery to Client. Following the final delivery of the Site to Client, Jobatory will have no further obligation to maintain the Site or to provide updates or technical support unless Client and Jobatory have entered into a separate written agreement related to such maintenance and support services.
- 9. Site Optimization.** Jobatory will optimize Site Content prior to the final delivery of the Site. Optimization includes on-page optimization, duplicate content analysis, page load time check, mobile-friendly testing, and implementation of page titles, meta descriptions, header tags, internal anchor text linking, local schema setup, image alt text addition, and hyperlink optimization. Unless otherwise agreed, Jobatory will not provide any additional search engine optimization services.

- 10. Site Analytics.** Following final approval of the Site, Jobatory will connect the Site to Google Analytics or the third-party website analytics provider specified in an SOW. The use of the website analytics provider is subject to the terms and conditions and any other legal agreements of such provider, and Client is responsible for compliance with such terms.
- 11. Website Hosting.** Unless otherwise stated in an applicable SOW, Client is solely responsible for hosting the Site. If Client already has website hosting for its existing website, Client agrees to provide Jobatory with any requested permissions and instructions to access the hosting services in order for Jobatory to provide the Services. If Client does not have a hosting service established before the commencement of the Services, Jobatory may recommend applicable website hosting services, but Client is ultimately responsible for selecting and provisioning a service suitable for the intended use of the Site and which meets all Requirements of the Site. If Client's website hosting services include a storage limit, Jobatory reserves the right if the Site exceeds 95% of the available storage during Site development to either: (i) purchase additional storage and invoice Client accordingly; or (ii) remove Site Content to maintain storage within the limits. Jobatory has the right, but not the obligation, to back up or archive the Site before delivery or in the event of an early cancellation of this Agreement.
- 12. Site Access and Security.** Jobatory will use reasonable security measures to prevent unauthorized access to Site Content during development. Client is responsible for the access it grants to the Site during development and for: (i) preventing any loss or damage to the Site; (ii) maintaining independent archival and backup copies of the Site; and (iii) ensuring the security, confidentiality, and integrity of all Site Content transmitted through or stored on the Site. Following final approval of the Site by Client, Client assumes full responsibility for the security and access rights related to the Site.
- 13. Client Content.** Jobatory may request Client to provide audio or visual content, including written content, illustrations, logos, product and service descriptions, graphics, images, video, animation, and designs (collectively, "**Client Content**"). Client is responsible for providing Jobatory with all Client Content specified in an SOW or as otherwise reasonably requested by Jobatory. Client is solely responsible for ensuring the accuracy and completeness of all Client Content and for ensuring that Client is the owner of or has all necessary rights to provide Client Content to Jobatory to use for its intended purpose and that the use by Jobatory will not violate the rights of any third party. Client hereby grants to Jobatory a non-exclusive, royalty-free, and revocable license to use Client Content solely for the purpose of providing the Services. Client further grants Jobatory the right to sub-license Client Content as necessary for Third-Party Services (defined below) specified in an SOW to store, access, or use Client Content to provide such services. Notwithstanding the license provided above, Client Content is and will remain Client's property exclusively, and nothing in this Agreement transfers any rights of ownership in any Client Content to Jobatory. Client agrees to indemnify and hold Jobatory harmless from any third-party claims related to Jobatory's access or use of Client Content as contemplated under this Agreement and any applicable Statements of Work.
- 14. Client Cooperation.** Client agrees to fully cooperate with Jobatory's requests for information, Client Content, direction, and approvals that are required by Jobatory to perform its obligations under this Agreement. If Client fails to cooperate with Jobatory as required under this Agreement, Jobatory will have no obligation to provide the Site on the same terms described in an applicable SOW, and Jobatory will have no obligation or liability with respect to any delay that is caused by Client or is otherwise outside Jobatory's reasonable control.
- 15. Services Fees.** Compensation for the Services will be set forth in each applicable SOW made pursuant to this Agreement ("**Services Fees**"). Unless otherwise specified, Services Fees will be paid within seven (7) days of invoice from Jobatory. Jobatory reserves the right to delay or suspend the Services if Services Fees are not paid when due. Services Fees are non-terminable, and payments are non-refundable upon receipt by Jobatory. Late payments will accrue interest at the greater of 1.5% of the outstanding balance per month or the highest rate permissible under applicable law. Client agrees to reimburse Jobatory for all reasonable costs incurred in collecting payments, including attorney and collection agency fees.
- 16. Taxes and Expenses.** Unless otherwise stated, Services Fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, without limitation, value-added, sales, use, or withholding taxes assessable by any local, state, provincial, federal, or foreign jurisdiction (collectively, "**Taxes**"). Client is responsible for all Taxes associated with Services Fees, and Jobatory is responsible for all Taxes associated with its revenues. Other than as expressly provided in an SOW, each Party will be responsible for its own expenses in the performance of this Agreement.
- 17. Term and Termination.** This Agreement begins on the Effective Date and continues until terminated as provided herein. Either Party may terminate this Agreement and all outstanding SOWs immediately for cause upon written notice if the other Party is in material breach of this Agreement and has failed to cure such breach within thirty (30) days after written notice from the non-breaching Party. Client may terminate this Agreement for any reason upon thirty (30) days' written notice to Jobatory by paying fifty percent (50%) of the remaining Services Fees ("**Early Termination Fee**"). The Parties agree that the Early Termination Fee is a reasonable amount in light of the difficulty in determining the actual damages to Jobatory on account of early termination by Client. Upon the effective date of termination of this Agreement, Jobatory will immediately cease performing the Services and will return all Client Content and Client's Confidential Information (defined below) in its possession. Client shall pay all Services Fees for Services provided by Jobatory up to and including the date of termination within thirty (30) days of the date of Jobatory's final invoice to Client.
- 18. Third Party Content.** Jobatory may use third-party content as a means for providing the Services, including, without limitation, written content, imagery, illustrations, and fonts ("**Third-Party Content**"). Jobatory will pass on any license and rights to use such Third-Party Content to Client, subject to the terms and conditions of such Third-Party Content license. Client

acknowledges that Third-Party Content may not be used by Client for any purpose other than as provided by Jobatory in the Final Site (defined below), and Client may not use of Third-Party Content apart from the Final Site as delivered by Jobatory.

19. Third-Party Services. Jobatory may use third-party services to provide the Services, including, without limitation, web-based website builders, scheduling applications, and other third-party applications ("**Third-Party Services**"). Jobatory does not warranty or in any way guarantee the availability or appropriateness of any Third-Party Services, and use of such Third-Party Services is entirely at Client's own risk and discretion. Client's use of Third-Party Services is solely between Client and the Third-Party Services provider and may be subject to separate terms and conditions and/or privacy policies. Jobatory is not responsible for the maintenance of any Third-Party Services or plug-ins added to the Site during or after the initial build unless Website Maintenance Services are purchased. Client is solely responsible for ensuring that all Third-Party Services, add-ons, or plugins on the Site remain current and functional. Jobatory will transfer to Client any warranties provided by Third-Party Services providers, if applicable. No other warranties, express or implied, are provided by Jobatory to Client.

20. Ownership of Work Product. "**Work Product**" means all material, content, writings, designs, taglines, logos, improvements, edits, works of authorship, information fixed in any tangible medium of expression (whether or not protectable under copyright laws), and related work-in-progress, improvements, or modifications to the foregoing that are created, developed, or conceived by Jobatory (alone or with others) in connection with the design and development of the Site for Client, and excluding the Final Site (defined below). Jobatory and its licensors are and will remain, the sole and exclusive owners of all rights, title, and interest in and to the Work Product, including all Intellectual Property Rights therein. "**Intellectual Property Rights**" means all of the following in any and all jurisdictions throughout the world (whether registered or unregistered): (i) patents and patent applications; (ii) copyrights; (iii) trademarks, trade dress, service marks, and other similar designations of source of origin, together with the goodwill symbolized by or associated with the foregoing; (iv) trade secrets; and (v) all other proprietary or intellectual property rights under any law or international convention throughout the world, including all registrations of, and applications for, any of the items described in clauses (i)-(iv) (inclusive).

21. Ownership of the Final Site. The "**Final Site**" means all Site in its final version and format delivered to and approved by Client under the terms of this Agreement, and excluding Third-Party Content. Conditioned upon full payment of all Services Fees under this Agreement, Jobatory agrees to assign to Client all legal rights, title, and interest to the Intellectual Property Rights in the Final Site. To the extent, if any, that Jobatory retains any rights, title, or interest in or to any Intellectual Property Rights in the Final Site for which all applicable Services Fees are paid, Jobatory agrees to grant Client an exclusive, royalty-free, transferable, irrevocable, and worldwide license (with rights to sublicense through multiple tiers of sublicensees, and the right to enforce such license) to the Final Site for any business purpose of Client, including the license to distribute, copy, make and have made derivative works of, publicly display, and publicly perform, the Final Site. To the extent any of the rights, title, and interest in and to the Final Site can neither be assigned nor licensed by Jobatory to Client, Jobatory agrees never to assert such rights, title, and interest against Client or its designees or their successors in interest.

22. Promotional Rights. Client hereby grants Jobatory the right to use Client's business name and logo and portions of the Site along with descriptions of the Services provided by Jobatory in connection with the advertising and promotion of Jobatory's services to the public. If Client provides Jobatory with a review, feedback, or other suggestions ("**Feedback**"), Client grants to Jobatory the unrestricted right to copy, reproduce, modify, and distribute such Feedback as Jobatory sees fit.

23. Confidentiality. "**Confidential Information**" means all information disclosed under this Agreement that is marked or otherwise designated as confidential, that is not generally known to the public, or otherwise should be understood as confidential. Confidential Information does not include any information that: (i) is or becomes generally known or available to the public through no fault of the receiving Party; (ii) is already known by the receiving Party at the time of disclosure through no wrongful act of the receiving Party; (iii) is furnished by a third party with the right to do so; or (iv) is independently developed by the receiving Party without the use of or reference to the Confidential Information provided hereunder. Each Party agrees not to use or disclose any Confidential Information of the other Party except for the purpose of meeting its obligations under this Agreement. Jobatory and Client shall advise their employees, agents, and contractors that they are bound by the confidentiality terms of this Agreement. If either Party is required to disclose Confidential Information relating to the other Party to a court or government agency, it shall, prior to disclosure and as soon as practicable, notify the other Party and allow it an adequate opportunity to object to the disclosure order or take other action to preserve the confidentiality of the information.

24. Relationship of Parties. The Parties are independent contractors, and nothing in this Agreement shall be construed to constitute an employer-employee relationship or partnership between or joint venture of the Parties, nor shall either Party be deemed the agent of the other Party or have the right to bind the other Party without the prior written consent of such Party.

25. Subcontractors. Jobatory may delegate duties under this Agreement to other individuals or entities acting as a subcontractor ("**Subcontractor**"). Jobatory will be liable for all Services performed by any Subcontractor and shall hold Client harmless of any liability in connection with their Services. Jobatory shall enter into non-disclosure and intellectual property assignment agreements with any Subcontractor that conforms to the terms and the provisions of this Agreement.

26. Compliance with the Law. Jobatory is not a law firm and is not responsible for any required or recommended legal notices or policies on the Site. Legal notices include, without limitation, terms of service, privacy policies, DMCA notices, cookie policies, return and refund policies, and other related legal documents. Client is solely responsible for providing any legal documents to Jobatory, and Jobatory will incorporate such legal documents onto the Site.

27. Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES, REGARDLESS OF THE CAUSE, RELATED TO OR ARISING OUT OF THIS AGREEMENT OR JOBATORY'S SERVICES RENDERED FOR CLIENT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, JOBATORY'S ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE SERVICES FEES PAID BY CLIENT FOR SERVICES RENDERED THROUGH THE TERMINATION DATE. ANY CLAIM ARISING UNDER THIS AGREEMENT MUST BE BROUGHT WITHIN 12 MONTHS AFTER THE EVENTS GIVING RISE TO THE CAUSE OF ACTION ARE DISCOVERED, OTHERWISE CLIENT WAIVES THE RIGHT TO MAKE SUCH CLAIM.

28. Disclaimers. THE WARRANTIES CONTAINED IN THIS AGREEMENT, IF ANY, ARE THE ONLY WARRANTIES MADE BY THE PARTIES. NEITHER PARTY MAKES ANY OTHER WARRANTY, EXPRESS OR IMPLIED, AND EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE FINAL SITE IS PROVIDED "AS IS" AND "WITH ALL FAULTS, AND JOBATORY DOES NOT WARRANTY OR IN ANY WAY GUARANTEE THAT IT WILL BE AVAILABLE, ERROR-FREE, OR FREE OF DEFECTS. UPON ACCEPTANCE OF THE FINAL SITE, CLIENT ASSUMES ALL LIABILITY AND RESPONSIBILITY RELATED TO THE FINAL SITE, AND JOBATORY WILL HAVE NO FURTHER OBLIGATION UNLESS SPECIFICALLY AGREED TO IN WRITING BETWEEN THE PARTIES. **CLIENT ACKNOWLEDGES THAT JOBATORY MAY PROVIDE SERVICES AND WEBSITES FOR OTHER CLIENTS SIMILAR TO THE SITE OR SERVICES PROVIDED FOR CLIENT UNDER THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED TO IMPAIR OR RESTRICT JOBATORY'S RIGHT TO PROVIDE SERVICES, NOW OR IN THE FUTURE, TO OTHER CLIENTS WITH BUSINESSES AND SUBJECT MATTER THAT MAY BE SIMILAR TO OR COMPETITIVE WITH THOSE OFFERED BY CLIENT. JOBATORY IS EXPRESSLY FREE TO PROVIDE THE SAME OR SIMILAR SERVICES TO ANY THIRD PARTY SO LONG AS SUCH ACTIVITY IS DONE WITHOUT THE USE OF CLIENT'S CONFIDENTIAL INFORMATION.**

29. Indemnification. The Parties agree to indemnify and hold the other harmless from and against any claims arising out of, or relating directly or indirectly to a Party's: (i) breach of any representation or warranty in this Agreement; and (ii) any cause of action alleging that the Final Site infringes any third-party Intellectual Property Rights. In the event of an infringement claim by a third party related to the Final Site, Jobatory's sole liability, and Client's exclusive remedy, is to either: (a) procure the right to use the allegedly infringing material; or (b) remove such allegedly infringing material and replace it with non-infringing material at no cost to Client.

30. Dispute Resolution. This Agreement shall be governed and construed according to the laws of the State of California, excluding that body of law pertaining to conflicts of law. Any dispute between the Parties shall be settled by binding arbitration conducted by the American Arbitration Association ("**AAA**"). The arbitration shall be conducted in San Francisco, California, and judgment may be entered in any court of competent jurisdiction. Any dispute excluded from the arbitration provision or that cannot be heard in small claims court shall be resolved in the state and federal courts located in San Francisco, California, and the Parties agree and submit to the personal and exclusive jurisdiction and venue of these courts.

31. Miscellaneous. This Agreement comprises the entire agreement between the Parties relating to the subject matter and supersedes all prior agreements, proposals, or representations, written or oral, and may only be modified in writing signed by an authorized representative of each Party. If any provision of this Agreement is held unenforceable by any court of competent jurisdiction, the Parties will agree on an alternate provision. No right or remedy is intended to be exclusive of any other right or remedy (unless such intent is expressly set forth in such provision). Neither Party may transfer or assign this Agreement without the consent of the other Party. This Agreement will bind and inure to the benefit of the Parties and their successors and permitted assigns. Neither Party will be liable for any failure or delay in its performance under this Agreement due to circumstances beyond its reasonable control. All notices and demands made upon any Party must be in writing (including electronic communication), are deemed given when received, and shall be delivered to the addresses in the signature block. Any provision of this Agreement contemplating performance subsequent to termination, or that expressly states that it survives termination shall so survive and shall continue in full force and effect until fully satisfied.

The Parties have caused this Website Development Agreement to be executed by their authorized representatives.

JOBATORY, LLC.

CLIENT:

By: _____
Name: _____
Title: _____
Date: _____
Address: _____

By: _____
Name: _____
Title: _____
Date: _____
Address: _____

