



## **Contract for Services**

### **This Contract Is An Example Only**

This Agreement for Professional Services (the "Agreement") is by and between [name of company], a corporation, with its principal office at \_\_\_\_\_ (hereinafter "Client"), and Hellow Yellow, a \_\_\_\_\_ corporation, with its principal office in Tampa, FL (hereinafter the "Company").

WHEREAS, Client finds that the Company is willing to perform certain work hereinafter described in accordance with the provisions of this Agreement; and

WHEREAS, Client finds that the Company is qualified to perform the work, all relevant factors considered, and that such performance will be in furtherance of Client's business.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

#### **1. SERVICES**

1.1 Services to Client. The Company shall provide the following ("Services") to Client:

**Website Design and Development:** Design and development of a five to ten page website built with a content management system. This will include the addition of content (photos and copy) supplied by the client, and a contact form with spam protection. Any additional features will be listed in the estimate/invoice and will be priced in the estimate/invoice accordingly.

**Logo Design:** Design includes creation of a logo and delivery of digital files in .jpg and .png (with transparency) file formats in small and large sizes. Additional file formats and size requests will be fulfilled when possible.

**Website Hosting:** Includes hosting and installation of Company created website, and MySQL Database. Any domain names purchased specifically at the clients request or transferred to the Company for purposes of website hosting shall be the property of the client, and will be transferred away from the Company hosting following the termination of services. The Client agrees to pay any costs associated with transferring a domain away from the Company hosting service.

**Email Hosting:** All email hosting offered by the Company utilizes third party email hosting providers. Email hosting is not an integrated part of website hosting, and will be itemized separately on the estimate/invoice. The Company cannot guarantee that your existing email service offers any backup solution for your current saved emails, and cannot be held responsible for any lost emails in the transition from a former email hosting to our service. The Company cannot be held responsible for any interruption of service that is caused by the third party email hosting service and that the Company has no control over.

**Email Campaign Service:** Includes design, content entry, and distribution of HTML email campaigns to a subscriber email list that is to be provided by the Client. The Client will have access to analytics for each email campaign sent. The Company makes every reasonable attempt to make sure that all email messages sent through our servers follow email standards, but we cannot guarantee that messages will look consistent across all email platforms due to the number of different HTML composition tools available.

1.2 Additional Costs. Any work not listed in the invoice that might add any additional costs to the estimate or invoice must be approved via email or in writing by the client prior to that work being undertaken. These expenses may include, but are not limited to stock photography, programming, or additional custom features.

## 2. PAYMENT AND INVOICING TERMS

2.1 Payment for Services The Company will be paid as follows:

**Single Payment Invoices:** Must be paid with credit card via our electronic invoicing system online or with check.

**Recurring Payment Invoices:** Must be paid via credit card that will be automatically be charged on the same day of each month for a twelve month commitment. Recurring invoices will start incurring charges as soon as development begins. Prior to any recurring credit card charge, the Client must fill out a Credit Card Authorization form.

All online credit card payments to the Company are handled by Authorize.net payment gateway. Authorize.net uses industry leading security technologies and protocols. For more information, please visit: <http://www.authorize.net/solutions/merchantsolutions/merchantservices/security/>

### 2.3 Invoicing

(a) **Single Payment Invoices:** All single payment invoices require a 50% deposit of the total invoice amount before any work is started. The remaining 50% is due upon completion of the agreed work. Payment for the final 50% is due upon notification to the Client that the website is live and is past due seven (7) business days from receipt of notice. If Client has any valid reason for disputing any portion of an invoice, Client will so notify the Company within seven (7) calendar days of receipt of invoice by Client, and if no such notification is given, the invoice will be deemed valid. The portion of the Company's invoice which is not in dispute shall be paid in accordance with the procedures set forth herein.

(b) **Recurring Invoices:** If Client has any valid reason for disputing any portion of a recurring invoice, Client will so notify the Company within seven (7) calendar days of

receipt of invoice by Client, and if no such notification is given, the invoice will be deemed valid. All recurring invoices will be charged to the Client's credit card automatically each month. Prior to any recurring credit card charge, the Client must fill out a Credit Card Authorization form. The client will have access to view the invoice and monitor monthly charges. The client will be notified via email and phone call of any disruption to the automatic payments. If a disruption of payments occurs, the client will have seven (7) business days to submit the payment before the account is past due.

(c) Any attorney fees, court costs, or other costs incurred in collection of delinquent accounts shall be paid by Client. If payment of invoices is not current, the Company may suspend performing further work, including design, website maintenance, and website hosting, without liability to Client.

### 3. DESIGN CHANGES

All designs must receive written final approval by the client before development will begin. As part of the design process, the client will receive up to three design revisions to provide feedback and input. Any revisions past the third will incur an \$80 per revision fee.

Once the designs have received written final approval from the Client, and development has begun, any design changes requested will be reviewed by the Company and may incur additional charges. Any additional charges will be submitted to the Client and the Company must receive written approval of the charges before the changes will be made.

### 4. STANDARD OF CARE

The Company warrants that its services shall be performed by personnel possessing competency consistent with applicable industry standards. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any services performed or software developed. THIS SECTION SETS FORTH THE ONLY

WARRANTIES PROVIDED BY THE COMPANY CONCERNING THE SERVICES AND RELATED WORK PRODUCT. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR OTHERWISE.

## 5. LIABILITY

5.1 Limitation The Company's liability, including but not limited to Client's claims of contributions and indemnification related to third party claims arising out of services rendered by the Company, and for any losses, injury or damages to persons or properties or work performed arising out of or in connection with this Agreement and for any other claim, shall be limited to the lesser of (i) \_\_\_\_\_ (\$\_\_\_\_\_) or (ii) payment received by the Company from Client for the particular service provided giving rise to the claim. Notwithstanding anything to the contrary in this Agreement, the Company shall not be liable for any special, indirect, consequential, lost profits, or punitive damages. Client agrees to limit the Company's liability to Client and any other third party for any damage on account of any error, omission or negligence to a sum not to exceed the lesser of (i) \_\_\_\_\_ dollars (\$\_\_\_\_\_) or (ii) the payment received by the Company for the particular service provided giving rise to the claim. The limitation of liability set forth herein is for any and all matters for which the Company may otherwise have liability arising out of or in connection with this Agreement, whether the claim arises in contract, tort, statute, or otherwise.

5.2 Remedy Client's exclusive remedy for any claim arising out of or relating to this Agreement will be for the Company, upon receipt of written notice, either (i) to use commercially reasonable efforts to cure, at its expense, the matter that gave rise to the claim for which the Company is at fault, or (ii) return to Client the fees paid by Client to the Company for the particular service provided that gives rise to the claim, subject to the limitation contained in Section 5.1. Client agrees that it will not allege that this remedy fails its essential purpose.

5.3 Survival Articles 2, 4, 5, and 6 survive the expiration or termination of this Agreement for any reason.

## 6. MISCELLANEOUS

6.1 Intellectual Property All intellectual property of the designs, logos, and websites created by the Company; excluding any images provided by the client, copy provided by the client, or stock photography; shall remain the property of the Company until the single invoice is paid in full, or the recurring invoice is paid in full for the terms of the agreement. The Company also retains the right to use all produced designs, logos, and websites for portfolio and promotional uses only.

6.2 Severability Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. Any provision shall nevertheless remain in full force and effect in all other circumstances.

6.3 Modification and Waiver Waiver of breach of this Agreement by either part shall not be considered a waiver of any other subsequent breach.

6.4 Independent Contractor The Company is an independent contractor of Client.

6.5 Notices Client shall give the Company written notice within one hundred eighty (180) days of obtaining knowledge of the occurrence of any claim or cause of action which Client believes that it has, or may seek to assert or allege, against the Company, whether such claim is based in law or equity, arising under or related to this Agreement or to the transactions contemplated hereby, or any act or omission to act by the Company with respect hereto. If Client fails to give such notice to the Company with

regard to any such claim or cause of action and shall not have brought legal action for such claim or cause of action within said time period, Client shall be deemed to have waived, and shall be forever barred from bringing or asserting such claim or cause of action in any suit, action or proceeding in any court or before any governmental agency or authority or any arbitrator. All notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within 48 hours, and shall be deemed given when delivered to the address specified below or such other address as may be specified in a written notice in accordance with this Section.

If to the Company:

301 W. Platt St. #57

Tampa FL 33606

If to Client:

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Any party may, by notice given in accordance with this Section to the other parties, designate another address or person or entity for receipt of notices hereunder.

6.6 Assignment The Agreement is not assignable or transferable by Client. This Agreement is not assignable or transferable by the Company without the written consent of Client, which consent shall not be unreasonably withheld or delayed.

6.7 Disputes The Company and Client recognize that disputes arising under this Agreement are best resolved at the working level by the parties directly involved. Both parties are encouraged to be imaginative in designing mechanism and procedures to resolve disputes at this level. Such efforts shall include the referral of any remaining issues in dispute to higher authority within each participating party's organization for resolution. Failing resolution of conflicts at the organizational level, the Company and Client agree that any remaining conflicts arising out of or relating to this Contract shall be submitted to non binding mediation unless the Company and Client mutually agree otherwise. If the dispute is not resolved through non-binding mediation, then the parties may take other appropriate action subject to the other terms of this Agreement.

6.8 Section Headings Title and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

6.9 Representations; Counterparts Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed (by original or telecopied signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

6.10 Residuals Nothing in this Agreement or elsewhere will prohibit or limit the Company's ownership and use of ideas, concepts, know-how, methods, models, data, techniques, skill knowledge and experience that were used, developed or gained in



connection with this Agreement. The Company and Client shall each have the right to use all data collected or generated under this Agreement.

6.11 Non solicitation of Employees During and for one (1) year after the term of this Agreement, Client will not solicit the employment of, or employ the Company's personnel, without the Company's prior written consent.

6.12 Cooperation Client will cooperate with the Company in taking actions and executing documents, as appropriate, to achieve the objectives of this Agreement. Client agrees that the Company's performance is dependent on Client's timely and effective cooperation with the Company. Accordingly, Client acknowledges that any delay by Client may result in the Company being released from an obligation or scheduled deadline or in Client having to pay extra fees for the Company's agreement to meet a specific obligation or deadline despite the delay.

6.13 Governing Law and Construction This Agreement will be governed by and construed in accordance with the laws of \_\_\_\_\_, without regard to the principles of conflicts of law. The language of this Agreement shall be deemed to be the result of negotiation among the parties and their respective counsel and shall not be construed strictly for or against any party. Each party (i) agrees that any action arising out of or in connection with this Agreement shall be brought solely in courts of the State of \_\_\_\_\_, in \_\_\_\_\_, or the United States District Court for \_\_\_\_\_, (ii) hereby consents to the jurisdiction of the courts of the State of \_\_\_\_\_ and the United States District Court for \_\_\_\_\_, and (iii) agrees that, whenever a party is requested to execute one or more documents evidencing such consent, it shall do so immediately.

6.14 Entire Agreement; Survival This Agreement, including any Exhibits, states the entire Agreement between the parties and supersedes all previous contracts, proposals, oral or written, and all other communications between the parties respecting the subject matter hereof, and supersedes any and all prior understandings, representations,

warranties, agreements or contracts (whether oral or written) between Client and the Company respecting the subject matter hereof. This Agreement may only be amended by an agreement in writing executed by the parties hereto.

6.15 Force Majeure The Company shall not be responsible for delays or failures (including any delay by the Company to make progress in the prosecution of any Services) if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, and severe weather, and acts or omissions of subcontractors or third parties.

6.16 Use By Third Parties Work performed by the Company pursuant to this Agreement are only for the purpose intended and may be misleading if used in another context. Client agrees not to use any documents produced under this Agreement for anything other than the intended purpose without the Company's written permission. This Agreement shall, therefore, not create any rights or benefits to parties other than to Client and the Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Date: \_\_\_\_\_

[Client]

By: \_\_\_\_\_

Title: \_\_\_\_\_

[Company]

By: \_\_\_\_\_

Title: \_\_\_\_\_