

## Hired Hand AMS Design and Development Agreement

This Agreement is made between (the "Client") and Hired Hand Software, LLC (the "Developer") with a principal place of business at 208A Main Street, Cedar Falls, Iowa, 50613.

### 1. Definitions

"The Site" means a series of linked Web pages under common control and developed by Developer for Client under this Agreement.

"The System" means the Hired Hand Animal Marketing System (AMS).

"Client Content" means all data, code, trademarks and copyrighted content provided by Client for use by Developer on the Site.

"Developer Content" means all data, code, trade secrets, patents, designs, drawings, text created by Developer for use on the Site, including any modifications or enhancements provided by Developer.

### 2. Developer Services

Developer will perform the development services described below.

Stage	Services
<b>Concept/Design</b>	The parties shall discuss and agree upon the basic concept for the Site.
<b>Initial Development/Testing</b>	Developer shall prepare the design and functionality defined in the Scope of Work (see Section 5) for the Site prior to turning over to Client for Site Preparation. Developer shall test the Site to ensure compliance with requirements and Site design and to ensure minimization of errors prior to handing off to Client.
<b>Final Development</b>	After Client Sign Off, Developer shall prepare the Site for final implementation on the due date.
<b>Implementation</b>	Developer shall move code and required components to the production environment and take steps necessary to make the Site live on the Internet.

### 3. Client Services

Client will perform the following services:

Stage	Services
Concept/Design	The parties shall discuss and agree upon the basic concept for the site. Client shall provide any necessary design elements, e.g., logos, graphics, photos (this does <u>not</u> include animal photos used in the animal catalog).
Client Site Preparation	Client shall have access to the completed Site, including all required functionality, in a test environment provided by Developer. Client shall enter any and all content and animal information (including photos) desired, unless otherwise defined in the Scope of Work.
Sign Off	Upon completion of Client Site Preparation, Client shall sign off on the project, approving it for installation.

### 4. Design & Package Options

Client confirms selection of the following system options:

Option	Selection
Site Design	View Invoice
Package	View Invoice
Number of Active Animals	View Invoice

### 5. Scope of Work

a. Website Design & Development, including:

- Concept and graphic artwork
  - Site Design - Cowpoke, Buckaroo, Wrangler, Foreman
- Integration of website into System framework
  - Domain Setup – Cowpoke, Buckaroo, Wrangler, Foreman
  - Server Configuration (Site settings) - Cowpoke, Buckaroo, Wrangler, Foreman
  - Template Development (Conversion of static design into dynamic website) - Cowpoke, Buckaroo, Wrangler, Foreman
  - Newsletter Signup Form – Wrangler/Foreman Only
  - Site Statistics/Reports – Wrangler/Foreman Only
  - Search Engine Optimization – Wrangler/Foreman Only
  - Testing - Cowpoke, Buckaroo, Wrangler, Foreman
  - Domain Registration/Transfer – if applicable

## 6. Compensation

Client shall pay the following amounts to Developer:

<u>Fee</u>	<u>Due Date</u>
View Invoice	Within 15 days of the effective date of the contract
View Invoice*	Within 60 days of the effective date of the contract †

See Attachment 1 for a Cost Summary.

\*Includes [first month | year] license fee

†Site will not be made live until final payment received by Developer

## 7. Changes in Scope

If Client wishes to implement major revisions after Client has already accepted Developer's work product following completion of any stage of development, Client shall submit to Developer a written proposal specifying the desired changes.

Developer will evaluate each such proposal at its standard rates and charges and submit to Client a written response to each such proposal. Developer's written response shall include a statement of the availability of Developer's personnel and resources, as well as any impact the proposed changes will have on the contract price, delivery dates or warranty provisions of this Agreement.

## 8. Late Fees

Payments not received by the invoice due date shall be subject to a late fee of \$25, plus 5% of the outstanding balance per month or the maximum allowed under state law from the due date until the amount is paid.

## 9. Materials

Client shall make available to Developer, at Client's expense, the following materials, facilities and equipment:

- website content
- graphics Client wishes to include in website design (this does not include animal photos to be used in the Animal Catalog)

## 10. Website Credits and Links

Developer can:

- state on the Site that it is a Hired Hand AMS Site
- place hypertext or image links on Client's Site to Developer's website
- place hypertext links on Developer's website to Client's Site as an example of Developer's services

## 11. Ownership of Developer Content

Developer shall retain all copyright, patent, trade secret and other intellectual property rights Developer may have in Developer Content. Subject to payment of all compensation due under this Agreement, Developer grants Client a nonexclusive, nontransferable, royalty-free license to use Developer Content. This license shall authorize Client to:



- operate the Site on Developer's host server
- update, revise or republish the Site, and
- advertise and promote the Site

## 12. Confidentiality

Confidentiality: Developer will use reasonable care to prevent the unauthorized use or dissemination of Client's confidential information. Reasonable care means at least the same degree of care Developer uses to protect its own confidential information from unauthorized disclosure. Confidential information is limited to information clearly marked as confidential or disclosed orally that is treated as confidential when disclosed and summarized and identified as confidential in a writing delivered to Developer within 15 days of disclosure. Confidential information does not include information that:

- the Developer knew before Client disclosed it
- is or becomes public knowledge through no fault of Developer
- Developer obtains from sources other than Client who owe no duty of confidentiality to Client, or
- Developer develops independently

## 13. Developer Representations and Warranties

Developer represents and warrants to Client that:

- Developer Content will substantially conform to all specifications set forth in this Agreement and its attachments upon delivery and for a period of 30 days after delivery.
- Developer has obtained or will obtain all necessary and appropriate rights and licenses to use Developer Content for the Site. Upon request, Developer will provide Client with copies of clearances for any intellectual rights obtained from third parties in connection with the website.
- Developer will not engage in any defamatory, deceptive, misleading or unethical practices that are or might be detrimental to Client or the Site.

THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE ONLY WARRANTIES GRANTED BY DEVELOPER. DEVELOPER DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 14. Intellectual Property Infringement Claims

Developer warrants that Developer will not knowingly infringe on the copyright or trade secrets of any third party in performing services under this Agreement. To the extent any material used by Developer contains matter proprietary to a third party, Developer shall obtain a license from the owner permitting the use of such matter and granting Developer the right to sub-license its use. Developer will not knowingly infringe upon any existing patents of third parties in the performance of services required by this Agreement, but Developer MAKES NO WARRANTY OF NON-INFRINGEMENT of any United States or foreign patent.

## 15. Limitation of Developer's Liability to Client

(a) In no event shall Developer be liable to Client for lost profits of Client, or special or consequential damages, even if Developer has been advised of the possibility of such damages.

(b) Developer's total liability under this Agreement for damages, costs and expenses, regardless of cause, shall not exceed the total amount of fees paid to Developer by Client under this Agreement

(c) Developer shall not be liable for any claim or demand made against Client by any third party except to the extent such claim or demand relates to copyright, trade secret or other proprietary rights, and then only as provided in the section of this Agreement entitled Intellectual Property Infringement Claims.

(d) Client shall indemnify Developer against all claims, liabilities and costs, including reasonable attorney fees, of defending any third party claim or suit arising out of the Client's use of the Developer Content provided under this Agreement, other than for infringement of intellectual property rights. Developer shall promptly notify Client in writing of any third party claim or suit and Client shall have the right to fully control the defense and any settlement of such claim or suit.

## 16. Client Representations and Warranties

Client represents and warrants to Developer as follows:

- Client has the authority to enter into and perform its obligations under this Agreement
- Client has or will obtain all necessary and appropriate rights and licenses to grant the license to Developer to use Client Content for the Site, and
- Client has or will obtain any authorizations necessary for hypertext links from the Site to any other third party websites.

Client will indemnify Developer from any third-party claims resulting in losses, damages, liabilities, costs, charges, and expenses, including reasonable attorney fees, arising out of any breach of any of Client's representations and warranties contained in this Agreement. For such indemnification to be effective, however, Developer must give Client prompt written notice of any such claim and provide Client such reasonable cooperation and assistance as Client may request in the defense of such suit. Client will have sole control over any such suit or proceeding.

## 17. Term of Agreement

This Agreement commences on the date it is executed and shall continue until full performance by both parties, or until earlier terminated by one party under the terms of this Agreement.

## 18. Termination of Agreement

Either party may terminate this Agreement by giving the other party 30 days written notice of its intention to terminate. In the event this Agreement is terminated by Client, Developer shall be entitled to full payment of the amounts set forth above for development and for the full first year of software use/service. All set up and

development fees are non-refundable. For all other work, Developer shall be entitled to compensation based on time and materials expended up to and including the date of termination.

## 19. General Provisions

(a) Complete Agreement: This Agreement together with all exhibits, appendices or other attachments, which are incorporated herein by reference, is the sole and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements and documentation relating to such subject matter. In the event of a conflict between the provisions of the main body of the Agreement and any attached exhibits, appendices or other materials, the Agreement shall take precedence.

(b) Modifications to Agreement: Modifications and amendments to this Agreement, including any exhibit or appendix hereto, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

(c) Applicable law: The validity, interpretation, performance and enforcement of this Agreement shall be governed by the laws of Iowa. Each of the parties consents to the jurisdiction of the Iowa District Court for Black Hawk County in Iowa in all matters relating to this Agreement.

(d) Notices: All notices and other communications given in connection with this Agreement shall be in writing and shall be deemed given as follows:

- When delivered personally to the recipient's address as appearing in the introductory paragraph to this Agreement;
- Three days after being deposited in the United States mails, postage prepaid to the recipient's address as appearing in the introductory paragraph to this Agreement, or
- When sent by fax or electronic mail. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first-class or certified mail, or the recipient delivers a written confirmation of receipt.

(e) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.

(f) Assignment: The rights and obligations under this Agreement are freely assignable by either party. Client shall retain the obligation to pay if the assignee fails to pay as required by this Agreement.

(g) Successors and Assigns: This agreement binds and benefits the heirs, successors and assigns of the parties.

(h) Severability: If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement will be interpreted so as best to carry out the parties' intent.



# Attachment 1: Project Costs

## Cost Summary \*\*

### Setup

Design & Development ..... View Invoice †

### Optional

[Domain Transfer/Registration ..... View Invoice

*Setup Total w/Options* ..... View Invoice †

### Ongoing License Fees

Package ..... View Invoice **month** | View Invoice **/year**

# Active Animals ..... View Invoice **/month**

## Payment Summary \*\*

Initial Installment ..... View Invoice †

Remaining Balance ..... View Invoice †

†Cost reflects the scope of work outlined in this document only. Any changes as a result of requirement clarification, client instigated changes, or additional services requested may result in additional cost to the client.

\*Developer retains the right to change prices with 30 days advance notice to Client.

\*\*All prices in US Dollars.

