

Web Site Development Agreement

1. **Parties; Effective Date.** This Web Site Development Agreement (“Agreement”) is between Plug-N-Run, its affiliates, (including but not limited to USA Financial, USA Financial Marketing, USA Financial Securities, and Portformulas Investing) a Michigan corporation with offices at 6020 E. Fulton St. Ada, Michigan (herein referred to as “DEVELOPER”) and the undersigned entity (herein referred to as “Customer”). This Agreement is effective on the date last signed by the parties (“Effective Date”).
2. **Nature of Relationship.** DEVELOPER is the owner or licensee of certain computer programs that provides web site development and hosting services. Customer would like DEVELOPER to create a web site for Customer using Customer-provided content and have DEVELOPER host the web site on DEVELOPER’s servers (the “Servers”). This Agreement sets forth the terms and conditions of the parties’ relationship.
3. **Deliverables – In General.**
 - a. DEVELOPER and Customer shall collaborate on a website questionnaire and consultation, if required, which shall contain a description of the following, as applicable:
 - (1) specifications for the Customer web site to be created by DEVELOPER (the “Web Site”);
 - (2) any and all documents, summaries, reports, analysis, studies, information, text, graphics or other written materials to be provided by Customer for use in the Web Site (“Content”);
 - (3) all development, hosting, and other services to be provided by DEVELOPER regarding the Web Site (collectively, “Services”);
 - (4) the amount and timing of all fees and expenses to be paid by Customer to DEVELOPER under this Agreement as outlined in the package fee schedule.

As applicable, the Web Site and Services are collectively referred to as “Deliverables.”
 - b. DEVELOPER may use subcontractors to provide Deliverables to Customer, unless otherwise strictly prohibited
4. **Acceptance.** The Deliverables shall be deemed accepted fourteen (14) days after delivery unless, within that time (the “Acceptance Period”), Customer provides written notice to DEVELOPER that the Deliverable does not operate in substantial conformance with the warranties contained in this Agreement. If Customer provides such written notice to DEVELOPER, DEVELOPER will use commercially reasonable efforts to, at its sole option, repair the Deliverable.
5. **Customer Content.**
 - a. Customer represents and warrants that all Content and other materials it discloses or delivers to DEVELOPER for use in connection with this Agreement and/or the Web Site are the property of Customer, or that Customer has the rights to disclose

- or deliver the Content and other materials to DEVELOPER, and that the Content and other materials do not infringe any copyright, trademark, trade secret, patent or other right of any third party. Customer shall retain all intellectual property rights to the Content. DEVELOPER shall be entitled to rely on the accuracy, truthfulness, completeness and appropriateness of all Content.
- b. DEVELOPER shall have the right, but not obligation, to refuse to incorporate into the Web Site or to remove from the Web Site, at any time, without prior notice to Customer, any Content that, in DEVELOPER's sole opinion, is defamatory, violates proprietary rights of a third party or otherwise tortuous, or is in violation of firm or regulatory body compliance rule and regulations; provided, however, that such right will not relieve the Customer any of its indemnification obligations under this Agreement.
 - c. DEVELOPER shall have no obligation under this Agreement to enforce the proprietary rights of Customer in its Content or any other Customer-provided materials in the event of any violation or misappropriation of such rights by a third party. However, DEVELOPER shall reasonably cooperate with Customer, at Customer's expense, in the protection and enforcement of Customer's rights in its Content and other materials.

6. Ownership.

- a. Except for Customer Content and Customer domain name, all Deliverables, software, documents, and other materials created by DEVELOPER in connection with, or pursuant to, this Agreement belong to DEVELOPER and are not owned by Customer. This includes copyrightable works of original authorship ideas, knowhow, processes, compilations of information, trademarks and other intellectual property ("Proprietary Materials"). All Proprietary Materials created by DEVELOPER in connection with, or pursuant to, this Agreement are not "works made for hire" as that term is used in connection with the U.S. Copyright Act. To the extent that, by operation of law, Customer owns any intellectual property rights in such Proprietary Materials, Customer hereby assigns to DEVELOPER all rights, title and interest, including copyrights, in such works.
- b. Upon payment of all fees associated with the development of the Deliverables, Customer is hereby granted a non-exclusive license to use, and publicly display all Deliverables in association with Customer's business purposes. All rights not expressly granted to Customer are reserved by DEVELOPER. Customer may not transfer, sublicense, sell or assign the Deliverables without DEVELOPER's prior express written consent.

7. Nonexclusive Use of Servers. Customer acknowledges and agrees that DEVELOPER has the right to use the Servers for any applications as DEVELOPER, in its sole discretion, may elect, including, without limitation, access to web sites other than the Customer's Web Site.

8. DEVELOPER Compensation.

- a. DEVELOPER shall charge Customer for Deliverables and shall be paid by Customer in accordance with the Plug-N-Run package and fee schedule.

9. **DEVELOPER's Warranties and Disclaimer.**

- a. DEVELOPER warrants that the Web Site will operate in substantial conformance with the features outlined in the Website Package and Fee Schedule. DEVELOPER shall use commercially reasonable efforts to remedy any Error within a reasonable time and under the DEVELOPERS control.
- b. DEVELOPER warrants that all Services shall be carried out in a diligent, prompt, and professional manner by individuals with the necessary knowledge and training to provide the Services.
- c. The warranties described in this Section are the only warranties DEVELOPER makes for Deliverables provided under this Agreement. DEVELOPER DOES NOT WARRANT OR OTHERWISE GUARANTEE THE ABILITY OF ANY USER TO ACCESS CUSTOMER'S WEB SITE, THE SPEED OF SUCH ACCESS TO THE WEB SITE, THE QUALITY OF THE CONNECTION TO THE SERVER, THAT ACCESS TO THE WEB SITE WILL BE UNINTERRUPTED, OR THAT THE OPERATION OF THE WEB SITE WILL BE FREE FROM ERROR. DEVELOPER DISCLAIMS, AND CUSTOMER HEREBY EXPRESSLY WAIVES, ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES, WEB SITE, SERVER AND/OR THE RESULTS OBTAINED FROM THEIR USE BY CUSTOMER, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. **Support Services.** During the term of this Agreement DEVELOPER shall provide to Customer reasonable website support services, as determined by the Website Package and Fee Schedule

11. **Indemnification.**

- a. DEVELOPER shall defend, at its sole expense, any third party claim, demand or suit ("Claim") against Customer alleging that Customer's authorized use of a Deliverable infringes a third party's U.S. patent, copyright, trademark, trade secret or other intellectual property right, and shall indemnify and hold Customer harmless from and against any and all damages, fines, penalties, costs, expenses and/or fees (including reasonable attorneys' fees) awarded or assessed against Customer in association with the Claim, or reached through a negotiated settlement of the Claim.
- b. Customer shall defend, at its sole expense, any third party Claim against DEVELOPER alleging: (1) that Customer's Content infringes the intellectual property rights, contract rights or other rights of a third party; (2) products or services offered through or by use of its Web Site; and shall indemnify and hold DEVELOPER harmless from and against any and all damages, fines, penalties, costs, expenses and/or fees (including reasonable attorneys' fees) awarded or assessed against DEVELOPER in association with the Claim, or reached through a negotiated settlement of the Claim.

- c. In order to receive the indemnification in this Section, the party seeking the indemnification must promptly notify the other party of the assertion of the Claim.
12. **Limitation of Liability.** In no event shall DEVELOPER be liable to Customer in relation to this Agreement or the Deliverables, regardless of the form of action or theory of recovery, for any: (a) indirect, incidental, consequential, special, punitive or exemplary damages, regardless of whether DEVELOPER has been made aware of their possibility; (b) lost profits, loss of data or business interruption losses; and/or (c) direct damages in an amount in excess of the fees paid by Customer to DEVELOPER under this Agreement. Any claims relating to this Agreement shall be brought within one (1) year after the party asserting the claim knew, or reasonably should have known, of the existence of the claim.
13. **Term and Termination.**
 - a. This Agreement shall be effective for a period of one (1) month from the Effective Date (the “Initial Term”), unless terminated sooner in accordance with this Agreement. This Agreement shall automatically renew for successive one (1) month terms unless either party provides the other party with written notice of its intent not to renew this Agreement no later than thirty (30) days prior to the expiration of the Initial Term or the then-current term.
 - b. This Agreement may be terminated by Customer on thirty (30) days prior notice. It is within DEVELOPER’S sole discretion to terminate this agreement at any time without limitation for cause. Should customer end affiliation with DEVELOPER, USA Financial, or its affiliates, it is in DEVELOPER discretion to end agreement without prior notice to Customer.
14. **Obligations Upon Termination.**
 - a. In the event of termination or non-renewal of this Agreement, each party shall return the other party’s Confidential Information and other materials and DEVELOPER shall return the Customer Content upon request. In addition, all unpaid fees under the this agreement as determined by Website Package and FEE Schedule, as applicable, shall become immediately due and payable by Customer to DEVELOPER, and Customer shall pay DEVELOPER all such fees within thirty (30) days of the effective date of such termination. This remedy is in addition to all other rights and remedies DEVELOPER has under this Agreement, at law and in equity.
 - b. Upon termination, Customer website will become inactive and public viewing capability will be disabled. All content on DEVELOPER servers cannot be moved or copied in current form to a new provider. The domain name ownership will remain with Customer, and Customer is permitted to use the domain with a new provider.
 - c. All provisions of this Agreement relating to confidentiality, ownership, indemnification, and limitations of liability shall survive termination or non-renewal of this Agreement.

18. **Independent Contractor Relationship.** The relationship between Customer and DEVELOPER is that of independent contractor. Nothing in this Agreement shall be construed as creating a relationship between DEVELOPER and Customer of joint venturers, partners, employer-employee, or agent.

19. **General.**

- a. This Agreement, the Website packages and fee schedule and all amendments thereto contain the entire understanding of the parties with respect to the subject matter addressed herein and supersede, replace and merge all prior understandings, promises, representations and agreements, whether written or oral, relating thereto. This Agreement may not be modified except by a writing signed by both parties. The remedies accorded DEVELOPER under this Agreement are cumulative and in addition to those provided by law.
- b. Any waiver of a party's right or remedy related to this Agreement must be in writing, signed by that party to be effective. No waiver shall be implied from a failure of either party to exercise a right or remedy. In addition, no waiver of a party's right or remedy will effect the other provisions of this Agreement.
- c. This Agreement shall be governed by the laws of the State of Michigan (exclusive of its choice of law rules), and the federal laws of the U.S.
- d. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be enforced to the fullest extent that it is valid and enforceable under applicable law. All other provisions of this Agreement shall remain in full force and effect.
- e. All notices must be in writing and sent either by: certified mail, return receipt requested; overnight courier; or by facsimile or by e-mail shall be effective when received by such party at the address listed herein or other address provided.
- f. Customer may not assign this Agreement, in whole or in part, without DEVELOPER's prior express written consent.

AGREED AND ACCEPTED:

Plug-N-Run

(Customer's Full Legal Name)

By: _____
(signature)

By: _____
(signature)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____