

AGREEMENT for AD TO WALLET ---- This Agreement is entered into between AD TO WALLET hereinafter referenced as (“Design Company”) and “The Client” as identified below. The Design Company has been contracted to perform design services (“Services”) as identified in this Agreement. This Agreement supersedes all other written and/or verbal agreements. The “Design Company” will not honor anything that is not included in this Agreement.

Design Company is an independent contractor, not an employee of Client or any company affiliated with Client. Design Company shall provide the Services under the general direction of Client, but Design Company shall determine, in the Design Company’s sole discretion, the manner and means by which the Services are accomplished. This Agreement does not create a partnership or joint venture and neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. The Design Company shall be permitted to engage and/or use third party creative or other service providers as independent contractors in connection with the Services provided herein.

RETAINED RIGHTS: As between the parties, Design Company does and will retain all intellectual property rights, including without limitation, copyrights, patents, trademarks, service marks and trade dress in any materials created by Design Company or its subcontractors in connection with the Services. For the avoidance of doubt, Design Company has no obligation to deliver, and grants no rights in, any rejected designs, documentation, illustrations, and project files and audio/verbal scripts, including preliminary concepts, accepted or rejected elements, works in progress, and finished materials which have been created or furnished by Design Company during the course of providing Services.

The Client grants Design Company (and its successors, assigns and affiliates) a non-exclusive, perpetual, worldwide, fully paid right to use any materials produced by Design Company, or portion thereof (including without limitation, screenshots and including the Client’s name, logo and trademarks or service marks), for marketing and promotional purposes, including without limitation on Design Company’s website. Design Company may also include client’s name and trademark or service mark in a list of Design Company’s clients for marketing and promotional purposes, on Design Company’s website, promotional materials or otherwise.

Client represents, warrants, and covenants that any materials (including without limitation, text, graphics, sound, video, photos, designs and artwork (each, an “element”)) provided to Design Company in connection with this Agreement are owned by the Client or that the Client has obtained all rights necessary to provide such elements for the intended use. Client will indemnify, defend and hold harmless Design Company, its subcontractors, officers, directors, owners, employees, agents, representatives, and affiliates from any and all liability, damages, costs and expenses (including attorney’s fees and court costs), including any claim, suit, action or proceeding, threatened or actual, related to the use of such elements by Design Company.

Disclaimer. THE SERVICES AND WORK PRODUCT OF DESIGN COMPANY ARE PROVIDED “AS IS” AND DESIGN COMPANY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, STATUTORY OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SECURITY OR OPERATION OF ANY EQUIPMENT.

Limitation of Liability: IN NO EVENT WILL DESIGN COMPANY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING LOST DATA, OR CONTENT, BUSINESS INTERRUPTION, HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY, WHETHER OR NOT SUCH PARTY KNEW OR HAD REASON TO KNOW OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT THE REMEDIES PROVIDED FOR HEREIN FAIL OF THEIR ESSENTIAL

PURPOSE, OR WHETHER FORESEEABLE OR NOT, ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE SERVICES, WHETHER THE BASIS OF THE LIABILITY IS BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), STATUTE OR ANY OTHER LEGAL THEORY. IN ALL CIRCUMSTANCES, THE MAXIMUM LIABILITY OF THE DESIGN COMPANY, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND/OR AFFILIATES TO CLIENT FOR DAMAGES OF ANY AND ALL CAUSES WHATSOEVER AND CLIENT'S MAXIMUM REMEDY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO THE CONTRACT PRICE.

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by a Force Majeure event defined as a fire, earthquake, labor dispute, act of God or public enemy, death, illness or incapacity of Design Company or any local, state, federal, national or international law, governmental order or regulation (including the denial or cancellation of any export or other necessary license) or any other event beyond Design Company's control. (Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused by a Force Majeure event or causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, and carriers, or party to substantially meet its performance obligations under this Agreement, provided that, as a condition to the claim of no liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.