

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LISA RASMUSSEN and CAROLE)
JOHNSTON, individuals, on their own)
behalfes and on behalf of all others similarly)
situated,)

Plaintiffs,)

v.)

PACIFIC WEBWORKS, INC., et al.,)

Defendants.)

No. C09-1815 TSZ

DECLARATION OF KENNETH BELL IN
SUPPORT OF PACIFIC WEBWORKS,
INC.'S MOTION TO DISMISS

I, Kenneth Bell, declare as follows:

1. I have personal knowledge of the matters set forth herein unless otherwise indicated, and could and would competently testify thereto if called as a witness. I am currently the Chief Executive Officer of Pacific WebWorks, Inc. ("WebWorks"). I make this declaration in support of WebWorks' motion to dismiss Bloosky's crossclaims.

2. WebWorks and Bloosky Interactive, LLC ("Bloosky") have engaged in a marketing relationship. As a result of that relationship, representatives of WebWorks have executed multiple agreements.


3. Among those Agreements, representatives of WebWorks have executed documents styled as a Master Advertising Agreement, an Insertion Order, and a Settlement and Release Agreement. These documents are attached to Bloosky's Crossclaim in this matter and are also attached hereto as Exhibit A.

4. WebWorks did not prepare these documents, and in fact, these documents were

1 prepared by, or provided to WebWorks by, Bloosky.

2 I declare under penalty of perjury that the foregoing is true and correct.

3 Executed on October 21, 2010.

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6 Kenneth Bell

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CERTIFICATE OF SERVICE

I hereby certify that on this day, I caused the foregoing document to be served via the Court's CM/ECF system on the following:

Clifford A. Cantor Law Offices of Clifford A. Cantor, P.C. 627 208th Ave. SE Sammamish, WA 98074 cacantor@comcast.net	Ina B. Scher Davis & Gilbert LLP 1740 Broadway New York, NY 10019
Rafe S. Balabanian Christopher Dore Edelson McGuire LLC 350 North LaSalle, Suite 1300 Chicago, Illinois 60654 whaselden@kamberedelson.com cdore@kamberedelson.com	Benjamin I. VandenBerghe Peggy C. Hughes Montgomery Purdue Blankinship & Austin 701 5 th Ave. Suite 5500 Seattle, WA 98104-7096
Edmund W. Robb Foster Pepper LLC 1111 3rd Avenue Suite 3400 Seattle, WA 98101-3299	Blaine C. Kimrey Bryan K. Clark Lathrop & Gage, LLP 100 N. Riverside Plaza Suite 2100 Chicago, IL 60606

DATED this 25th day of October, 2010.

Of Counsel:

By /s/ Adam C. Buck
 Robert E. Mansfield*
 Todd M. Shaughnessy*
 J. Elizabeth Haws*
 Adam C. Buck*
 Snell & Wilmer L.L.P.
 15 West South Temple, Suite 1200
 Salt Lake City, Utah 84101-1004
 Telephone: (801) 257-1900
 Fax: (801) 257-1800

*admitted *pro hac vice*

EXHIBIT A

MASTER ADVERTISING AGREEMENT

THIS MASTER ADVERTISING AGREEMENT (hereinafter "Agreement") is made and entered into as of the date on the signature page below (the "Operative Date"), by and between Bloosky, LLC d.b.a. Bloosky Interactive Media, LLC (hereinafter the "Company") and Advertiser as set forth on the signature page below (hereinafter the "Advertiser"). Advertiser and Company are sometimes collectively referred to in this Agreement as the parties ("Parties")

In consideration of the covenants and conditions hereinafter set forth, the Parties agree as follows:

Company is in the business of marketing products and services online through various mediums, including banners, links, WebPages, email and/or through its network of clients and affiliates (hereinafter collectively "Bloosky Service"); and

Advertiser wishes to place one or more advertisements or promotions with the Bloosky Service and hereby engages Company to do so.

THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth in this Agreement, the Parties agree to be legally bound as follows:

Definitions of Terms of Agreement

"Action" as defined on the Insertion Order, the act that a User must complete in order for Company to be paid the Customer Acquisition Fee by the Advertiser or the Lead Generation Fee by the Advertiser. Advertising campaigns conducted on a cost per unit basis are known as CPA.

"Advertiser" has the meaning set forth in the preamble.

"Advertisement" means the graphic(s), multimedia files(s), Web page(s) or text file(s) provided by Advertiser or created for Advertiser.

"Bloosky Service" has the meaning set forth in the preamble.

"Click-Through" means the number of times, as recorded by Company's or a Bloosky Service's server, a User directly interacts with (i.e., clicks on) an Advertisement linked for transfer to the Advertiser's site or suggested destination. Advertising campaigns conducted on a cost per click basis are known as "CPC".

"Company" has the meaning set forth in the preamble.

"Customer Acquisition Fee" as set forth on the Insertion Order.

"Lead" means a potential customer of the Advertiser that meets the criteria set forth on the Insertion Order.

"Lead Generation Fee" as set forth on the Insertion Order

"Insertion Order" means one or more advertising insertion order(s).

"Non-Viable Lead" means a Lead that (a) do not contain any accurate contact information or (b) do not reasonably satisfy such other criteria specifically set forth on the Insertion Order, provided, however, that a Lead shall not be considered a Non-Viable Lead if it has not been returned by Advertiser to the Company as provided above.

"Start Date" means the first day an Advertisement may be displayed on the Bloosky Service.

"User" means any person viewing or interacting with a Web Site, file served by a Web Site or electronic mail services.

"Web Site" means one or more HTML or XML pages(s) containing information available via the Internet, or via services that connect to the Internet (including without limitation, cellular phone services).

1 Advertising Services.

1.1 Unless otherwise noted on the Insertion Order, Advertiser hereby grants to Company worldwide, royalty-free license to: (i) use, reproduce, display, publicly perform, transmit, distribute, and promote the Advertisement(s) in connection with providing the advertising services under this Agreement; (ii) create or develop Advertisement(s) or make derivative works of Advertisement(s) in connection with providing the advertising services under this Agreement; and (iii) grant third parties the right to use, reproduce, market, display, perform, copy, transmit, distribute, and promote the Advertisement(s) on Web Sites within the Bloosky Service. Company may further sublicense its rights under this Section 1.1 to its independent contractors that provide services to Company (including but not limited to advertising services, web site hosting services, ad copy preparation services, and email campaign management services) for providing the advertising services under this Agreement.

1.2 Company will not place Advertisement(s) on the Bloosky Service until it receives and accepts a properly completed Insertion Order executed by Advertiser. Each Insertion Order shall be deemed accepted by Company only upon signature by a duly authorized officer of the Company; each Insertion Order will not obligate the Company in any way until so accepted by the Company.

1.3 The Company's sole obligation to Advertiser under this Agreement with respect to Advertisement(s) shall be to place acceptable Advertisement(s) on the Bloosky Service subject to the provisions of this Agreement. Company has advised Advertiser, and Advertiser acknowledges, that Web Sites participating in the Bloosky Service are not contractually bound to carry any Advertisement(s). Accordingly, placement of Advertisement(s) shall be in the discretion of Company and subject to the right of any member of the Bloosky Service to reject any particular Advertisement.

2 Advertising Restrictions and Conditions; Reserved Rights.

2.1 Notwithstanding any provision in this Agreement to the contrary, Company expressly reserves the right to: (i) refuse or cease to deliver any Advertisement, cancel any Insertion Order, or change any Advertisement that does not completely conform to every material detail, instruction, method, and guideline set forth in the Insertion Order; (ii) refuse any Advertisement that does not arrive forty-eight (48) hours prior to the Start Date; (iii) refuse any Advertisement that it deems, in its sole discretion, inappropriate for any reason or no reason; (iv) refuse at any time to use, distribute, display, promote, print or mail any copy, photograph, illustration or multimedia file of any kind for any reason, including,

without limitation, those that it believes, in its reasonable discretion, is an invasion of privacy, is degrading, libelous, unlawful, profane, obscene, pornographic, tends to ridicule or embarrass, is in bad taste, or which in its reasonable discretion is an infringement on a trademark, trade name, or copyright belonging to others; (v) refuse or cease to deliver any Advertisement that is or can be hosted by a competitor of Company, directly or indirectly competitive network; (vi) refuse or cease to deliver any Advertisement which redirects traffic to a Web Site other than the site specifically identified in the Insertion Order; and (vii) refuse or cease to deliver any Advertisement which on its face asks Users to take advantage of other or additional offers or advertisements not specifically identified in the Insertion Order.

2.2 Advertiser shall provide all creative and substantive materials required for marketing the offer, including but not limited to: banners, language/text for suggested promotional email text, links, key words and any other creative content as needed, including but not limited to the use of alternative text based creative. Company may, at its sole discretion, develop, modify or create ad copy, creative or campaign strategies, although it will have no obligation to do so or to meet any related requirements or specifications. Company may modify Advertisements without the approval of Advertiser prior to placing them on the Bloosky Service, provided that such modification does not alter the meaning of the the content of the Advertisement.

2.3 Any Advertisement rejected by Company may be replaced by Advertiser; provided that any such replacement material must be in writing and accompanied by appropriate material identifying the Advertisement that it is to replace. Company shall notify Advertiser of the rejection of any Advertisement, and shall have no liability to Advertiser for any such rejection. Further, Company shall have no liability to Advertiser for failure to place any Advertisement on any particular portion of the Bloosky Service.

3. Auditing and Tracking of Campaigns.

3.1 Company utilizes a tracking system that will serve as the log of responses and as the reporter of registrations by URL, Origin ID, or Affiliate ID code. The information collected by Company's tracking system will be used to compute the amounts owed by and billed to Advertiser, even if the information differs from the information collected by Advertiser's tracking system, and even if the Advertiser hosts the Advertisement(s).

3.2 In the event that Advertiser hosts the Advertisement(s), Company shall have the right to place tracking code on Advertiser's Web Site as may be required to track and provide estimated live statistics for Company's affiliates. The technical specifications of the tracking system and its delivery methods must be met to the reasonable satisfaction of Company before any advertising or ad-serving will be provided by Company.

3.3 Advertiser shall provide, at minimum, a weekly summary report reflecting the exact number of Actions delivered. The Company, in its reasonable discretion and by consultation with Advertiser, will determine the form of said reports. Advertiser may not

revise or amend such reports once submitted to the Company, unless Company agrees in writing to accept such revisions or amendments.

3.4 Advertiser agrees that it will use the User data that it receives in accordance with applicable law and privacy policies. Advertiser may use such data until the User unsubscribes or otherwise indicates a desire to no longer receive such communication. Advertiser acknowledges and agrees that the User data that it receives was submitted by Users that have elected to co-register or sign up with Advertiser, as well as Company and other companies offering products or services that are advertised, facilitated or marketed by Company (each, a "Company Customer"). Company and each Company Customer has the right to market and communicate to such Users, and are joint owners of User data, consistent with the applicable policies and procedures of Company and its Customers.

4. Payment.

4.1 Advertiser will pay Company the Customer Acquisition Fee set forth in the applicable Insertion Order for each and every User that arrives at one or more Advertiser Web Sites by means of a Company promotion and subsequently completes the required Action. For example, and without limitation: if an individual responds to an advertisement from Company, and selects a service or product of Advertiser from the Bloosky Service and is then sent to the Advertiser site via a link, and subsequently purchases a product or service, then such User will be deemed a New Customer for which Advertiser will owe Company a Customer Acquisition Fee. Advertiser acknowledges that many of its customers begin the purchase process on-line, but conclude it through one or more telephone calls. Therefore, Advertiser agrees that it will use promotion codes in its landing pages in a manner reasonably acceptable to Company, and will ask potential customers that telephone for the promotion code on Advertiser Web Sites, and will track such promotion codes and customers to determine the New Customers.

4.2 Advertiser will pay Company the Lead Generation Fees set forth in the applicable Insertion Order for each Lead collected by Company and transferred to Advertiser by HTTP Post, batch file, or otherwise. In the event Advertiser disputes the number of Leads and/or claims that the Leads are Non-Viable Leads, it shall return the Leads within five (5) days after receipt thereof, which return shall be accompanied by a detailed explanation of the rationale for the rejection of such Leads, consistent with this Agreement. Company shall, in good faith, consider such documentation, but shall have final authority in determining the correct count of leads and non-viable leads. If Company deems the Leads to be valid, its determination shall be deemed final and binding on the parties. In the event that Advertiser disputes the ultimate determination, it may, as its sole remedy, terminate this Agreement (and, therefore, any IO) immediately. If Advertiser elects to terminate this Agreement as provided in this paragraph, Advertiser shall remain liable for all Leads delivered prior to and up to three (3) days after termination. Caps limiting the total payment for Lead Generation Fees, if any, must be clearly stated in the applicable Insertion Order, failing which there shall be no caps.

4.3 Advertiser shall pay Company for Actions delivered and fees earned on a Bi-Monthly basis of when such Actions were delivered or such fees earned. If Company does not receive a written notification of a disputed invoice within ten (10) days of the date of a Company invoice (other than disputes regarding Lead quality which are governed by Section 4.2), with rationale and support therefore specifically set forth in such notice, the invoice will be deemed valid and payable and Advertiser may not dispute such invoice or the payment due under such invoice. Advertiser specifically agrees that this provision is reasonable and that Company will rely upon this provision in making payments to participants in its Bloosky Service.

4.4 Advertiser hereby expressly acknowledges that the dispute mechanisms set forth in Sections 4.2 and 4.3 are Advertiser's sole remedy with respect to challenging the Customer Acquisition Fee or the Lead Generation Fee. Advertiser shall have no recourse if the value of the Action or the Lead ends up being less than anticipated. For example, and without limitation, if Advertiser ordinarily requires a twelve month service contract with its customers, and the User referred by Company terminates his or her service after the first month, then Advertiser will still need to pay Company the Customer Acquisition Fee for that User.

4.5 In the event that Advertiser fails to pay all or a portion of the amount due in the invoice, Company may immediately remove any and all Advertisement from the Bloosky Service without notice.

4.6 In the event that Company has not received payment in full when such payment is due under Section 4.3 above, Advertiser shall pay Company an additional one and one-half percent (1.5%) of the outstanding balance per month, or the maximum interest allowable under applicable law, whichever is less, until the outstanding balance is paid in full.

4.7 In the event that Company must incur expenses related to collection of any outstanding balance and/or late fees, Advertiser shall immediately pay Company's reasonable expenses associated with said collection, including, without limitation, reasonable attorney's and collection agency's fees. Company, in its sole discretion, may remove the Advertisement from the Bloosky Service and/or terminate this Agreement immediately if Advertiser fails to pay any amount due hereunder.

4.8 If Advertiser chooses to have Company host its offer, as identified on the Insertion Order, all data collection performed by Company shall become the sole property of Company.

5. Term, Termination, Payment of Minimum Contract Price.

5.1 This Agreement shall continue for the term set forth in any Insertion Order, provided that either party may terminate this Agreement upon ten (10) business days prior written notice.

5.2 The forgoing notwithstanding, Company reserves the right to terminate this Agreement immediately in the event that either (i) the campaign does not meet minimum campaign performance criteria then currently in place; or (ii) Advertiser violates the payment terms set forth in Section 4.

6. Representations and Warranties/Non-Solicitation.

6.1 Each party represents and warrants to the other party that (i) such party has the full corporate right, power, and authority to enter into this Agreement, to grant the rights and licenses granted and to perform the acts required of it, (ii) the execution of this Agreement by such party, and the performance by such party of its obligations and duties, do not and will not violate any agreement to which such party is a party or by which it is otherwise bound, or any applicable governmental law or regulation to which it is subject, and (iii) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party in accordance with its terms. Each party acknowledges and agrees that it will not rely upon, or hold the other party to, any representations, warranties, or agreements related to subject matter of this Agreement that are not expressly provided for in this Agreement.

6.2 Advertiser represents and warrants that (i) Advertiser has a reasonable basis for all claims made within its Advertisement(s) and possesses appropriate documentation to substantiate such claims, (ii) the landing page for each Advertisement (i.e., the Advertiser's Web Site page where a consumer is directed when the consumer clicks on an Advertisement, fills in a registration form or takes a similar action on an Advertisement) contains a prominent link to Advertiser's privacy policy, which policy provides, at a minimum, adequate notice, disclosure and choices to consumers regarding Advertiser's use, collection and disclosure of their personal information, (iii) Advertiser shall fulfill all commitments made in its Advertisements, (iv) no Advertisement is targeted to children under the age of thirteen, (v) under no circumstances will the Advertiser provide for the download onto a consumer's site of spyware, malware or similar such harmful software and prior to loading any other software onto an individual's computer but excluding cookies (provided that cookies are disclosed in Advertiser's privacy policy), Advertiser shall provide notice to and shall obtain the express consent of such individual, and (vi) Advertiser will not violate any applicable State, Federal or other law regarding the collection, use or destruction of User-related data.

6.3 Advertiser represents and warrants that Advertiser will maintain sufficient fraud prevention and data validation technology, including without limitation standard address and credit card validation, where applicable (collectively "Fraud Prevention") to ensure that the Actions or the Leads are non-fraudulent, and, in any event, Advertiser shall maintain such Fraud Prevention consistent with industry standards. Advertiser expressly acknowledges that any damages resulting from Advertiser's failure to maintain adequate Fraud Prevention shall be the exclusive responsibility of Advertiser.

6.4 During the term of this Agreement and for six (6) months hereafter, Advertiser shall not knowingly solicit any on-line publisher, Web Site, or email provider that is affiliated with Company, unless a previously existing business relationship between Advertiser and such publisher can be demonstrated to Company's reasonable satisfaction

7. No Additional Warranties.

7.1 THE ADVERTISING SERVICE PROVIDED BY COMPANY, ITS USE AND THE RESULTS OF SUCH USE ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, COMPANY MAKES NO WARRANTIES (INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT), GUARANTEES, REPRESENTATIONS, PROMISES, STATEMENTS, ESTIMATES, CONDITIONS, OR OTHER INDUCEMENTS, EXPRESS, IMPLIED, ORAL, WRITTEN, OR OTHERWISE EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. COMPANY DOES NOT WARRANT OR GUARANTEE CONVERSION RATES, PAY-UP RATES, RESPONSE RATES OR ABILITY TO CONVERT THE RESPONSES INTO SALES. COMPANY DOES NOT WARRANT OR GUARANTEE THE PROFILE OR DEMOGRAPHICS OF A RESPONDENT. COMPANY DOES NOT GUARANTEE TO MATCH COLORS, TEXT, PHOTO IMAGE OR SCREEN DESIGN. COMPANY WILL MAKE EVERY EFFORT TO MEET SCHEDULED DELIVERY AND ON-LINE DATES, BUT MAKES NO GUARANTEE AND ACCEPTS NO LIABILITY FOR ITS FAILURE TO MEET SAID DATES.

7.2 ADVERTISER ACKNOWLEDGES AND AGREES THAT COMPANY IS MERELY A VENUE WHICH FACILITATES RELATIONSHIPS BETWEEN THE ADVERTISER AND PUBLISHERS. COMPANY HAS NO OBLIGATION FOR OR RELATING TO REVIEWING OR OTHERWISE SCREENING ADVERTISEMENTS FOR INCLUSION ON THE BLOOSKY SERVICE, AND SHALL NOT BE RESPONSIBLE FOR POLICING, MONITORING OR EDITING ANY ADVERTISEMENT.

8. Limitation of Liability.

8.1 EXCEPT AS EXPRESSLY PROVIDED BELOW WITH RESPECT TO INDEMNIFICATION, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS OR LOST DATA (EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTORY OR OTHERWISE ARISING FROM THIS AGREEMENT, THE BLOOSKY SERVICE OR ANY ASPECT OF THE ADVERTISING RELATIONSHIP PROVIDED IN THIS AGREEMENT. COMPANY SHALL NOT IN ANY EVENT BE LIABLE TO ADVERTISER FOR MORE THAN THE LESSER OF

(A) THE AMOUNT PAID BY ADVERTISER FOR THE INSERTION ORDER AT ISSUE FOR THE THREE-MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE OR (B) THE AMOUNT PAID BY ADVERTISER HEREUNDER FOR THE TWELVE-MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. NO ACTION, SUIT OR PROCEEDING SHALL BE BROUGHT AGAINST COMPANY MORE THAN ONE YEAR AFTER THE DATE OF SERVICE. THE FOREGOING LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY REMEDIES HEREUNDER AND APPLY REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE

9. Indemnification.

9.1 Advertiser is solely responsible for any legal liability arising out of or relating to (i) the Advertisement, and/or (ii) any material to which a User can link through the Advertisement, to the extent that such Advertisement has not been altered or modified in any material way by Company without Advertiser's direction or approval. Advertiser and Company shall indemnify, defend, and hold harmless Company and or Advertiser and its officers, agents, affiliates and employees from and against all claims, actions, liabilities, losses, expenses, damages, and costs (including, without limitation, reasonable attorney's fees) that may at any time be incurred by any of them arising from or relating to any claims, suits, or proceedings (a) alleging libel, defamation, violation of rights of privacy or publicity, copyright infringement, trademark infringement or other infringement of any third party right, fraud, false advertising, misrepresentation, product liability, violation of Advertiser's privacy policy, or violation of any law, statute, ordinance, rule or regulation throughout the world arising from or relating to the Advertisement or with personal information collected or used by Advertiser, including without limitation the Controlling the Assault of Non-Solicited Pornography and Marketing Act, the National Do Not Call Registry and the State Do Not Call lists; (b) arising out of any breach by Advertiser of any duty, representation or warranty under this Agreement; (c) arising out of any breach by Company of any duty, representation or warranty under this Agreement to place the Advertisement on the Bloosky Service due to any breach by Advertiser of this Agreement; (d) relating to a contaminated file, virus, worm, Trojan horse or other malicious computer program originating from the Advertisement; or (e) relating to any adware or spyware used by or on behalf of Advertiser.

10. General.

10.1 Waiver. The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather the same will be and remain in full force and effect.

10.2 Force Majeure. Company shall not be liable for, or considered in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions which are beyond Company's

reasonable control (including without limitation, the failure of the Bloosky Service to display or place an Advertisement).

10.3 Independent Contractors. The Parties to this Agreement are independent contractors. Neither party is an agent, representative, partner, employee, or joint venture of the other party. Neither party will have any right, power, or authority to enter into any agreement on behalf of, or incur any obligation or liability of, or to otherwise bind the other party. This Agreement will not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either party.

10.4 Survival. Any obligations which expressly or by their nature are to continue after termination, cancellation, or expiration of this Agreement shall survive and remain in effect after such happening, including without limitation, Sections 3.1, 3.3 (until all reports are delivered), 4.1 - 4.6 (until all amounts due are paid), 4.6, 4.7, and 6 - 10.

10.5 Construction; Severability. This Agreement will be deemed to have been drafted by both parties, and Advertiser expressly waives the right to argue that ambiguities, if any, should be construed against the Company. Each party acknowledges that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all the risks (both known and unknown) associated with the transactions contemplated hereunder. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid or unenforceable by a court with jurisdiction over the Parties to this Agreement (i) such provision will be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and (ii) the remaining terms, provisions, covenants, and restrictions of this Agreement will remain in full force and effect.

10.6 Entire Agreement. This Agreement coupled with the insertion order constitutes the entire and only agreement and supersedes any and all prior agreements, whether written, oral, express, or implied, of the Parties with respect to the matters set forth in this Agreement. Neither party will be bound by, and each party specifically objects to, any term, condition, or other provision which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is proffered by such party in any correspondence or other document, unless the party to be bound specifically agrees to such provision(s) in writing signed or initialed by such party. This Agreement includes any Insertion Order(s) accepted by both parties as provided in this Agreement. This Agreement will govern each and every Insertion Order without the need for this Agreement to be signed with each Insertion Order. Each Insertion Order is a material part of this Agreement. The terms and conditions of this Agreement will be deemed to modify (or if modification is not possible, will supersede) any terms in any Insertion Order that are less favorable to Company.

10.7 Amendment. No change, amendment, or modification of any provision of this Agreement will be valid unless set forth in a written instrument signed by both Parties

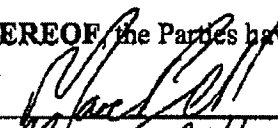
10.8 Headings. The captions and headings used in this Agreement are inserted for convenience only and will not affect the meaning or interpretation of this Agreement.

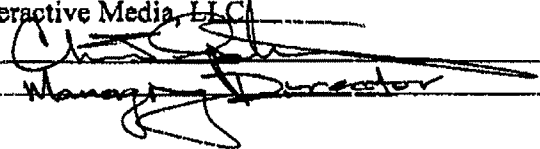
10.9 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same document. If this document was delivered to Advertiser in an electronic format, then Advertiser represents and warrants that it did not modify the document after its receipt and before its execution.

10.10 Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Nevada without respect to choice of law rules and the Parties hereby consent to exclusive jurisdiction and venue in the state and federal courts in and serving Clark County, Nevada. The Parties waive the personal service of any process upon them and agree that service may be completed by overnight mail (using a commercially recognized service) or by U.S. mail with delivery receipt to the address stated in this Agreement. Company shall be entitled to recover all reasonable costs of collection (including attorney's fees, in-house counsel costs, expenses and costs) incurred in attempting to collect payment from Advertiser.

10.11 Notice. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given at the time such communication is sent by registered or certified mail (return receipt requested), or recognized national overnight courier service, or delivered personally, to the following addresses (or at such other address for a party as shall be specified by like notice):

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth above.

Customer Signature 
 Printed Name/Title Marc Bell Director of Marketing
 Full Corporate Name Pacific WebWorks, Inc.
 Customer ID# _____
 Primary Address 180 S. 300 W. Suite 400 SLG UT 84101
 Phone 801-579-9020
 Fax 801-579-9019
 Email MarcB@pacificwebworks.com
 Contract No. _____
 Operative Date / /

Bloosky Interactive Media, LLC
 Signature 
 Title Managing Director

insertion order

20-1 avenida fabricante
san clemente, ca 92672
bloosky account executive > Christine Knoll
p. 888.529.3618
f. 888.5340264
e. Cknoll@bloosky.com

advertiser information

advertiser: Pacific WebWorks, Inc.
advertiser contact: Marc Bell
address: 230 W. 400 S.
address2: First Floor
city, state, zip: Salt Lake City, UT 84101
phone: 801-578-9020 ext. 110
fax: 801-578-9019
email: marcb@pacificwebworks.com

billing contact: Marc Bell
address: 230 W. 400 S.
address2: First Floor
city, state, zip: Salt Lake City, UT 84101
phone: 801-578-9020 ext. 110
fax: 801-578-9019
email: marcb@pacificwebworks.com

campaign specifics > check all that apply.

campaign name: Online Success Kit
qualifying action: Sale - page 2
payment terms: Net 15
start date: 8/20/2008 - end date: t/b/d
cpa: \$42

- hosted
- non-hosted
- exclusive

media

- email
- search
- banners
- contextual
- other: Incent Allowed

suppression file retrieval

- email weekly
- download via link
- download via log-in

special notes:

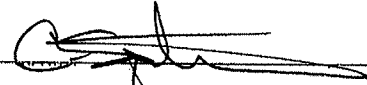
US ONLY, currently no suppression file this is a brand new offer. All fraudulent leads need to be report back to Bloosky with in 5 days of the lead being generated. No Cash/Point incentives allowed without advertiser approval.

> authorized signatures

today's date: 8/20/2008

> bloosky interactive

Signature >

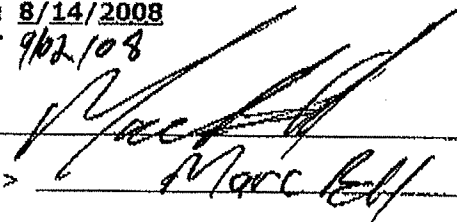


Title > Chris Spillsbury, Biz Dev

today's date: 8/14/2008

> advertiser 9/2/08

Signature >



Printed Name >

Marc Bell

Important note: Advertiser agrees to the Terms and Conditions attached to this document. This agreement may be executed via facsimile and in counterparts.

please fax signed insertion order to:

advertiser terms & conditions

> terms and conditions

These Terms and Conditions shall govern this Insertion Order (the "IO"), which is entered into as of the date on the signature page above by and between Bloosky Interactive ("Bloosky") and the Advertiser identified above (collectively, the "Parties").

> 1. advertising services

Advertiser shall provide Bloosky with its advertisement, which must include all creative and substantive materials required to market the offer, including (i) all product and/or service descriptions, (ii) graphic images and/or logos, (iii) email from and subject lines, (iv) language and text for the advertisement, (v) links, (vi) key words and (vii) any and all other creative content.

Advertiser grants to Bloosky, its agents and its affiliates, a worldwide, royalty-free license to use, reproduce, display, publicly perform, transmit, distribute, and promote the advertisement, including any and all trademarks, service marks, trade dress, logos, copyrights, publicity rights or other intellectual property utilized in the Advertisement. Advertiser acknowledges and agrees that, in order to provide the advertising services under this IO, Bloosky may sublicense and/or assign its rights under this section to one or more independent contractors that provide services for Bloosky (including, but not limited to, advertising services, web site hosting services, ad copy preparation services, and email campaign management services).

Along with its advertisement, Advertiser shall provide Bloosky with an email suppression file, in the manner specified above, in order to remove consumers who have "opted out" of receiving future advertisements from Advertiser. Afterwards, on a recurring basis, Advertiser shall provide Bloosky with an updated suppression file, in the manner provided above, on every fifth (5) calendar day thereafter, or sooner. Advertiser shall permit Bloosky to "seed" Advertiser's suppression data in order to ensure that consumers who have opted out of receiving advertisements from Advertiser are indeed removed.

Bloosky's sole obligation shall be to place the advertisement on its network, subject to the provisions of this IO. Bloosky has advised Advertiser, and Advertiser acknowledges, that Bloosky's affiliates and independent contractors participating in its network are not obligated to carry, transmit, market or publish any advertisement. Accordingly, placement of an advertisement shall be subject to the right of any affiliate or independent contractor to decline any advertisement.

Bloosky expressly reserves the right to refuse or cease to deliver any advertisement, or cancel any IO, that it deems, in its sole discretion, is inappropriate for any reason or no reason, including, without limitation, any advertisement that Bloosky believes is an invasion of privacy, degrading, libelous, unlawful, deceptive, profane, obscene, pornographic, tends to ridicule or embarrass, is in bad taste, or that, in its reasonable discretion, is an infringement on a trademark, service mark, trade dress, trade name, logo, publicity right, copyright or other intellectual property right of another.

> 2. auditing and tracking of campaigns

Bloosky utilizes a tracking system that will log consumer responses and report registrations by URL, Origin ID, or Affiliate ID code. The information collected by Bloosky's tracking system will be used to compute the amounts owed by and billed to Advertiser.

> 3. payment

Advertiser shall pay Bloosky for advertising published by Bloosky on a cost per action or "CPA" basis in accordance with the terms of this IO. Bloosky shall submit invoices to Advertiser on a weekly basis. On or before the fifteenth (15th) calendar day following the date of an invoice, Advertiser shall remit payment by wire transfer or check to Bloosky, at the address listed above, unless otherwise set forth on page one of this IO.

In the event Advertiser fails to pay all or a portion of an amount due in an invoice, Bloosky may immediately remove any and all of Advertiser's advertisements without notice. Payments not made within thirty (30) days following the date of an invoice shall accrue interest at a rate of 1.5% per month.

In the event Bloosky incurs expenses arising from or related to collection of any outstanding balance, Advertiser shall pay Bloosky's reasonable expenses associated with the collection, including, without limitation, reasonable attorneys' fees and costs, and collection agency's fees and costs.

In the event Advertiser disputes the number of actions in an invoice or claims that any actions are non-viable, it shall return the disputed actions within five (5) calendar days after receipt of a disputed action, along with a detailed explanation of Advertiser's rationale for rejecting any actions. Bloosky shall, in good faith, consider such documentation, but shall have final authority in determining the total count of actions for billing purposes.

> 4. term, termination, payment of minimum contract price

This IO shall continue for the term set forth above, provided that either Party may terminate this IO upon ten (10) business days prior written notice.

Notwithstanding, Bloosky reserves the right to terminate this IO immediately in the event that: (i) the campaign does not meet minimum campaign performance criteria then currently in place; (ii) Advertiser violates the payment terms set forth herein; (iii) Advertiser's advertisement violates any law, rule or regulation; or (iv) Bloosky is required, by law or court order, to cease or terminate Advertiser's advertisement.

> 5. miscellaneous provisions

Each Party represents and warrants it has the power, right and authority to enter into this IO; to grant the rights and licenses granted herein; and to perform the acts required in this IO. Each Party represents and warrants that it will fully comply with all applicable statutes, rules and regulations with respect to its respective business, including, but not limited to, the CAN-SPAM Act of 2003, and laws regulating deceptive trade practices and advertising.

Advertiser represents and warrants that it has a reasonable basis for all claims made within its advertisement and possesses appropriate documentation to substantiate such claims; the landing page for each advertisement contains a prominent link to Advertiser's privacy policy, which policy provides, at a minimum, adequate notice, disclosure and choices to consumers regarding Advertiser's use, collection and disclosure of their personal information; Advertiser shall fulfill all commitments made in its advertisement; no advertisement is targeted to children; under no circumstances will the Advertiser provide for the download onto a consumer's site of spyware, malware or similar such harmful software; and Advertiser will not violate any applicable State, Federal or other law regarding the collection, use or destruction of User-related data.

Along with this IO, Advertiser shall provide Bloosky with a copy of its Privacy Policy and Terms of Use. In the event Advertiser modifies or changes its Privacy Policy or Terms of Use, Advertiser shall provide written notice to Bloosky, along with a copy of the modified Privacy Policy and/or Terms of Use, at least seven (7) business days prior to Advertiser's implementation of the modified Privacy Policy and/or Terms of Use.

Advertiser shall provide Bloosky with written notice of any proposed changes to or replacement of an advertisement (including any images or links) or landing page at least three (3) business days prior to the change or replacement.

Upon request, Advertiser shall provide Bloosky with any and all documentation that supports any claims made in an advertisement within five (5) business days of the request. Thereafter, Advertiser shall cooperate with any follow-up questions by Bloosky relating to such documentation, including, but not limited to, making available any and all of Advertiser's employees who are involved with, knowledgeable of or responsible for any claims made in an advertisement or the documentation supporting such claims. Advertiser acknowledges that any delays by it in fulfilling its obligations set forth in this paragraph will delay Bloosky's ability to place an advertisement on its network.

During the term of this IO and for six (6) months hereafter, Advertiser shall not knowingly solicit any on-line publisher, Web Site, or email provider that is affiliated with Bloosky, unless a previously existing business relationship between Advertiser and such publisher can be demonstrated to Bloosky's reasonable satisfaction.

Advertiser agrees to indemnify and hold Bloosky and its members, officers, directors, employees and agents (collectively, the "Indemnitees") harmless from and defend each such Indemnitee against any damages, liabilities, losses, taxes, fines, penalties, costs, and expenses (including, without limitation, reasonable fees of counsel and related costs) of any kind or nature whatsoever (whether or not arising out of third-party claims and including all amounts paid in investigation, defense or settlement of the foregoing), as the same are or may be incurred, which may be sustained or suffered by any Indemnitee in connection with any present or future threatened, pending or contemplated investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, to which any such Indemnitee is or was a party or is threatened to be made a party, and that arises from or is related to this IO or Advertiser's advertisement.

This IO shall be governed by the laws of the State of California without respect to choice of law rules and the Parties hereby consent to exclusive jurisdiction and venue in the state and federal courts in and serving Orange County, California.

The Parties to the IO are independent contractors. Neither party is an agent, representative, partner or employee of the other party. Neither party will have any right, power, or authority to enter into any agreement on behalf of, or incur any obligation or liability of, or to otherwise bind the other party. The IO will not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either party.

The Parties recognize and acknowledge that they have acquired and/or will acquire confidential information and trade secrets (hereafter "Confidential Information") from and/or concerning the other Party, and their parents, subsidiaries, affiliates, and acquired businesses. The Parties shall not, during or after the Term, use or disclose any Confidential Information to any person, firm, corporation, association, or any other person or entity for any reason or purpose whatsoever, directly or indirectly, except as required to perform their respective duties hereunder or as required by law. In the event of termination of this IO, whether voluntary or involuntary, and whether initiated by Advertiser or Bloosky, or upon request of Bloosky at any time, the Parties shall deliver to one another all documents and data pertaining to the Confidential Information and shall not take or remove any documents or data of any kind or any reproductions (in whole or in part) or extracts of any items relating to any Confidential Information. Neither Party shall, at any time during or after the term of this IO, use, copy, publish, summarize, or remove from any Confidential Information, except, during the term of this IO, to the extent necessary to carry their respective duties and responsibilities under this IO.

No delay or omission by either Party hereto in exercising any right, power or privilege hereunder shall impair such right, power or privilege, nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

This IO contains the entire understanding of the Parties with respect to the terms and conditions of Advertiser's placement of the above referenced advertisement with Bloosky, and supersedes all prior agreements, negotiations and understandings relating to Advertiser's placement of the above referenced advertisement with Bloosky, including specifically, any oral or written agreements between Advertiser and Bloosky or its affiliates and/or subsidiaries. This IO cannot be amended or modified except by a written instrument signed by Advertiser and an authorized signatory of Bloosky.

This agreement is non-exclusive for both Parties and either Party may enter similar agreements with other third parties.

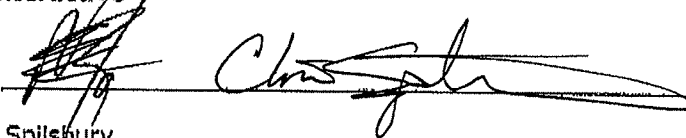
> authorized signatures

in witness whereof, the Parties have caused this IO to be duly executed as of the date set forth above.

today's date: ^{9/2/08} ~~9/2/08~~

> bloosky interactive

Signature >

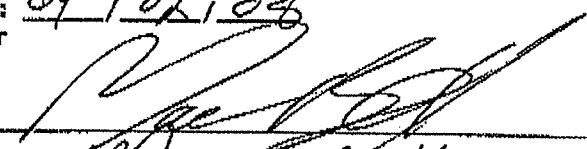


Title > Chris Spilsbury

today's date: ^{09/02/08} ~~09/02/08~~

> advertiser

Signature >



Printed Name >

Marc Bell

SETTLEMENT AND RELEASE AGREEMENT

1. **Parties; Effective Date.** This Settlement and Release Agreement ("Agreement") is entered into by and between Bloosky Interactive, LLC, a Nevada limited liability company ("Bloosky"), and Pacific WebWorks, Inc., a Nevada corporation ("Pacific"). This Agreement is effective on the date last signed by the parties ("Effective Date").
2. **Nature of Agreement.** Bloosky is engaged in the business of providing online advertising and marketing-related services and products. Pacific is engaged in the business of selling products directly to consumers. On or about August 2007, the parties, either directly or through their respective affiliates and/or predecessors, entered into that certain Master Advertising Agreement (which is incorporated herein by reference), under which Bloosky agreed to provide certain online advertising and marketing-related services and/or products to Pacific (the "Advertising Agreement"). As of November 2009, Pacific owed Bloosky approximately \$180,000 for products and/or services provided by Bloosky pursuant to the terms of the Advertising Agreement and other insertion orders, agreements and/or understandings between the parties directly and expressly related to the Advertising Agreement entered into by and between Bloosky and Pacific ("Related Agreements").
3. **Payment.** In consideration of the compromise of their respective claims and contentions, and the mutual promises, representations, and warranties contained in this Agreement, Pacific hereby agrees to pay to Bloosky by wire transfer, on or before November 19, 2009 at 3:00 p.m. PST, the sum of ONE HUNDRED AND EIGHTY THOUSAND DOLLARS (\$180,000).
4. **Bloosky Release.** Bloosky now and forever releases and discharges Pacific from any and all claims which directly arises from Pacific's failure to pay amounts owed as of the Effective Date directly arising under the terms of the Advertising Agreement and the Related Agreements entered into by and between Bloosky and Pacific.
5. **Pacific Release.** Pacific, on behalf of itself and its respective parent, subsidiaries, affiliates, successors, and assigns, now and forever releases and discharges Bloosky and its respective parent, subsidiaries, affiliates, successors, assigns, principals, officers, directors, shareholders, partners, agents, employees, attorneys, and contractors from any and all claims, liabilities, damages, and causes of action of any nature which directly arises from the Advertising Agreement and the Related Agreements entered into by and between Bloosky and Pacific. Moreover, Pacific expressly agrees that there are no amounts owed to Pacific as of the Effective Date arising under the terms of the Advertising Agreement and the Related Agreements entered into by and between Bloosky and Pacific.
6. **Future Claims.** The preceding releases provided Paragraphs 4 and 5 above extends to and includes any and all claims, liabilities, injuries, damages, and causes of action either party does not presently anticipate, know, or suspect to exist, but that may develop, accrue, or be discovered in the future directly related to and/or arising out of the Advertising Agreement or the Related Agreements. **BOTH PARTIES KNOWINGLY, VOLUNTARILY, AND EXPRESSLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542 (AND ANY OTHER SIMILAR FEDERAL OR STATE STATUTES IN ANY OTHER JURISDICTION), WHICH PROVIDES:**

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Both parties represent and warrant that it has considered the possibility that claims, liabilities, injuries, damages, and causes of action that it does not presently know or suspect to exist in its favor may develop, accrue, or be discovered in the future, and that Pacific voluntarily assumes that risk as part of the consideration for this Agreement.
7. **Contingency of Release.** The release and provisions contained in this Agreement are expressly conditioned upon the following: (a) Pacific must pay Bloosky the sum of ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000) pursuant to Paragraph 3 above by wire transfer so that the money is received by Bloosky on or before November 19, 2009 at 3:00 p.m. PST; (b) both parties to this Agreement must execute and deliver an executed copy of this Agreement by facsimile or other electronic transmission


to the other party on or before November 19, 2009 at 3:00 p.m. PST; and (c) both parties to this Agreement must have all requisite power and authority to execute, deliver and perform its obligations under this Agreement. If any of the preceding three conditions do not occur, such action or non-action shall be considered a material breach of this Agreement and this Agreement and all provisions contained herein shall be void, and the parties shall be returned to their original respective legal positions as if this Agreement was never contemplated or entered into.

8. **Attorneys' Fees.** The parties each waive the right to recover any attorneys' fees, costs of suit, or other expenses incurred in connection with any claims or liabilities directly arising out of the Advertising Agreement or the Related Agreements. If any legal action is commenced to interpret, enforce, or recover damages for the breach of any term of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees incurred in connection with that action, in addition to costs of suit.
9. **Representations.** Each party represents and warrants that: (a) it has all requisite power and authority to execute, deliver and perform its obligations under this Agreement; (b) the execution, delivery and performance of this Agreement has been duly authorized by such party; and (c) no approval, authorization or consent of any court or any government or regulatory authority or other person or entity is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement.
10. **No Admission of Liability.** This Agreement is entered into for the purposes of compromising disputed claims and avoiding the expense, inconvenience, and uncertainty of litigation. Nothing contained in this Agreement, nor any consideration given pursuant to it, shall constitute or be deemed to be an admission of any breach, liability, or damages of any party.
11. **Indemnification.** In addition to the indemnification provided in the Advertising Agreement and the Related Agreements, both parties will, at their expense, indemnify, defend, and hold harmless the other party and their respective parent, subsidiaries, affiliates, officers, directors, members, shareholders, employees, contractors, representatives, agents, successors and assigns from and against any and all losses, liabilities, damages, and claims, and all costs and expenses relating to such losses, liabilities, damages, and claims by a third party (including, without limitation, costs and/or expenses of investigation, litigation or other dispute resolution proceedings, settlement, judgment and interest and reasonable attorneys' fees and paralegals' fees [whether or not suit is instituted and, if instituted, at the trial or appellate court levels, in a probate, administrative, bankruptcy or other proceeding, or otherwise]) directly arising out of or relating to a material breach of this Agreement, the Advertising Agreement, and/or the Related Agreements.
12. **Entire Agreement.** This Agreement contains the entire understanding between the parties concerning the settlement of this dispute. Any and all prior negotiations that are not contained in this Agreement are superseded and are of no force or effect. Each party represents and warrants that no promise or inducement to enter into this settlement has been made to him or her that is not set forth in this Agreement.
13. **Further Documents.** Each party covenants and agrees to execute such further documents and perform such further acts as may be reasonable and necessary to effectuate the purposes of this Agreement.
14. **Controlling Law; Venue; Severability; Construction.** This Agreement shall be interpreted in accordance with the laws of the State of California. Any litigation shall be brought in a court of competent jurisdiction in the County of Orange, California, or in the U.S. District Court for the Central District of California (Southern Division), and the parties hereby expressly consent to personal jurisdiction and venue in such forums. Where the context requires, the masculine, feminine, and neuter genders shall be construed to include each other, as shall the singular and the plural and the past, present, and future tenses. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder shall be construed and enforced so as to best effectuate the intention of the parties at the time this Agreement was entered into. This Agreement was drafted jointly by or on behalf of the parties, and shall not be interpreted against any party on the basis that the party or the party's attorney drafted any of its provisions.
15. **Modification.** This Agreement may not be orally superseded, modified, or amended. No waiver, modification, or amendment shall be valid unless signed by all parties.
16. **Counterparts; Facsimile.** This Agreement may be executed and delivered in two or more counterparts, and/or delivered by facsimile or other electronic transmission, each of which shall be deemed an original and all of which together shall be deemed to constitute one and the same agreement. This Agreement must

be executed by a handwritten signature and not by an electronic signature, notwithstanding that it may be electronically transmitted or delivered. Where a party has delivered this Agreement by facsimile or other electronic transmission, it shall forthwith deliver an originally executed copy of this Agreement to the other party, but the failure to do so shall not affect the validity or enforceability of this Agreement.

AGREED AND ACCEPTED:

BLOOSKY INTERACTIVE, LLC


By: 
(signature)

Name: MATT COOK
(printed)

Title: CEO

Date: 11/17/09

PACIFIC WEBWORKS, INC.

By: 
(signature)

Name: Kenneth W. Bell
(printed)

Title: CEO

Date: 11/19/09