

Alloy Flooring Website Services Agreement

Please fill out the form below with your billing Credit Card information and email this form to **dwssupport@intermarkgroup.com**. Please call our support department at **1-800-546-1705** if you have any questions.

Credit Card Information

Retailer/Dealer Name: _____ (“DEALER”)

Credit Card Type: ___ Visa ___ MasterCard ___ American Express ___ Discover

Credit Card Account #: _____

Credit Card Expiration Date: _____

CVC Number: _____ (Last 3 digits from the back of the card or 4 digits from the front of the card)

Name as it Appears on Credit Card: _____

Please select your Dealer Website package (only choose 1)

<input type="checkbox"/> Bronze Package Set Up Fee: \$79 Monthly Charge: \$79	<input type="checkbox"/> Silver Package Set Up Fee: \$199 Monthly Charge: \$179	<input type="checkbox"/> Gold Package Set Up Fee: \$199 Monthly Charge: \$279	<input type="checkbox"/> Platinum Package Set Up Fee: \$199 Monthly Charge: \$399
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<input type="checkbox"/> Bronze – Mobile App Set Up Fee: \$199 Monthly Charge: \$99	<input type="checkbox"/> Silver - Mobile App Set Up Fee: \$99 Monthly Charge: \$79	<input type="checkbox"/> Gold - Mobile App Set Up Fee: \$99 Monthly Charge: \$59
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<input type="checkbox"/> Product Gallery Set Up Fee \$99 Monthly Charge \$79	<input type="checkbox"/> Add on Social Media Management Set Up Fee: \$199 Per Social Platform Monthly Charge: \$99
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Your credit card will be billed a one-time set up fee as defined per your package selection above. **Your monthly hosting charge will start once your website is online or 30 days from the date your site is provided for review. Monthly charges for mobile apps will start once your Mobile App(s) are available in mobile online stores.**

I hereby authorize Alloy Digital to charge my credit card based on the package selection above. I understand and agree to the terms of this document – Alloy Flooring Dealer Website Agreement.

Cardholder Signature: _____ Date: _____

Credit Card Billing Address

Street Address 1: _____

Street Address 2: _____

City: _____

State: _____ Zip/Postal Code: _____

Daytime Phone #: _____ Fax #: _____

Email: _____

Alloy Digital

Phone: 800-546-1705

Alloy Flooring Website Services Agreement

101 25th Street North
Birmingham, AL 35203

Fax: 205-776-2313
DWSSupport@Intermarkgroup.com

This Alloy Flooring Website Services Agreement, Waiver and Release (this "**Agreement**") is effective as of the date and year first written above by and among **ALLOY DIGITAL, A DIVISION OF THE INTERMARK GROUP**, an Alabama corporation ("**Alloy**"), and the Flooring Retailer identified above ("**DEALER**") with reference to the following facts:

- A. The DEALER has entered into a Website Services Agreement (the "**Alloy Flooring Website Services Agreement**") with Alloy with regard to a website (the "**DEALER Website**");
- B. Pursuant to the Website Services Agreement, Alloy will manage the DEALER Website and owns certain features of the DEALER Website;
- C. Alloy may provide content ("**Manufacturer-Supplied Content**") from certain national manufacturers for their authorized flooring dealers. Details and limitations of such Manufacturer-Supplied Content will be specified in one or more Appendices to this Agreement. Each relevant Appendix will require individual signature to be enacted.
- D. The package contents outlined in Appendix A will be delivered as part of the Dealer Website Program. Additional items will be considered outside of the Dealer Website program and additional charges may be applied to the dealer.

NOW, THEREFORE, the parties agree as follows:

1.0 DEALER WEBSITE

- 1.1. DEALER Website. DEALER (and its members) and Alloy shall be responsible and liable for making certain that all aspects of the DEALER Website (other than the content of Manufacturer-Supplied Content) are in compliance with all applicable laws, rules and regulations, including without limitation, any applicable privacy policies and/or standards, and not in violation of any rights of any third parties.
- 1.2. Acknowledgement; Authority to Bind Members. The DEALER acknowledges and agrees on behalf of the DEALER and its members that the DEALER has entered into this Agreement for itself and on behalf of each of its members, and assumes the obligations imposed hereunder in order to induce Alloy to participate in the creation of the Website. The DEALER acknowledges and agrees that Alloy is relying on this Agreement as a condition for providing access to Manufacturer-Supplied Content to the DEALER and/or its members. The DEALER represents and warrants to Alloy that (a) the DEALER has the right, power and authority to execute, deliver and perform this Agreement on behalf of itself and each of its members, and has taken all action necessary to authorize it (and has made certain that each member has taken all action necessary to authorize such member) to enter into and perform this Agreement, including without limitation, in the case of the DEALER and/or its members that are limited liability companies, compliance with any and all requirements of the operating agreement of such limited liability company, (b) the signatory for the DEALER has full right, power and authority to bind itself and its members to all of the terms and conditions of this Agreement, and (c) this Agreement constitutes a valid, legal and binding obligation of the DEALER and its members.

2.0 DURATION AND TERMINATION

- 2.1 Agreement Period. This Agreement will become effective on the date written above and will continue in force for a period of Twelve (12) months, with automatic renewals for another Twelve (12) months thereafter, unless sooner terminated as provided herein. Either party may terminate this Agreement by giving the other party advance written notice of at least Ninety (90) days. Upon termination of this Agreement, except as provided below, Alloy will assign to Client all of its rights in contracts, made with third

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parties for Client; and Client will assume all obligations and hold Alloy harmless from all liability thereunder. In the event any contract is non-assignable and consent to assignment is refused, or Alloy cannot obtain a release from its obligations, Alloy will continue performance, and Client will meet its obligations to Alloy, as to the unassigned or unreleased contracts only, as though this Agreement has not been terminated.

2.2 Expired Credit Cards. Retailers will be required to ensure all credit card information on file is up to date. Upon a credit card expiring, the Flooring DWS support team will contact dealers to attempt to obtain the updated credit card information. If we are unable to obtain the updated credit card information after two months there will be a penalty of a 50% upcharge for the third month of declined billing. After the fourth month the services including website and email hosting will be deactivated. Services will be reactivated upon securing the updated credit card information.

3.0 COSTS/EXPENSES

3.1 DEALER shall be responsible and liable for any and all costs, liabilities and/or expenses of using the Manufacturer-Supplied Content as contemplated hereunder, including without limitation, any costs to replicate the Manufacturer-Supplied Content onto the DEALER Website and/or to host the DEALER Website.

3.2 Alloy support staff can be available to assist with small updates such as uploading a small number of images. A fee per hour may be billed to the dealer for large updates such as embedding links or uploading a large number of images. Additionally, Alloy can assist with creating a logo for a flat fee of \$500. This would consist of 2 iterations of changes.

4.0 NO WARRANTIES/LIMITATION OF LIABILITIES

DEALER and its members assume the risk that the website will not operate as expected and may cause technical difficulties with the DEALER's and/or its members' past, existing and/or future computer equipment or programs, databases, systems and/or other business operations. Alloy provides no warranties to DEALER and/or any of the DEALER's members of any kind with respect to Website. In the event of a defect in the Website, Alloy shall have the option of either modifying or replacing the defective content, or terminating the use of the Website and/or this agreement in Alloy's sole discretion. The warranty set forth above is exclusive and in lieu of all others, oral or written, express or implied. Alloy makes no warranty or representation, express, implied, statutory or otherwise, with respect to the Website and other provided services, their quality, performance, merchantability or fitness for a particular purpose. All content is delivered "as is," and the DEALER and its members assume the entire risk as to its quality and performance.

In no event shall Alloy be liable for direct or indirect, special, incidental, consequential or punitive damages of any kind, including, but not limited to, loss of use, lost profits, interruption of business, cost of substituted facilities, equipment or service, down-time costs, or claims of customers of any DEALER and/or any members of the DEALER for damages arising under this agreement or deriving from the Website, irrespective of how such damages may be caused, whether or not because of negligence, strict liability, fault or delay of Alloy, or its breach or failure of performance hereunder, even if Alloy has been advised of the possibility of such damages, or for any claim against the DEALER and/or its members by any other party.

5.0 INDEMNITY

5.1 Indemnity of Alloy by DEALER and DEALER's Members. DEALER and each of the DEALER's members, jointly and severally, will defend, indemnify and hold Alloy and their respective subsidiary, affiliated and parent companies, and their respective officers, directors, employees, agents, successors, assigns and representatives, harmless from and against all loss, liability, damage and expense, including reasonable outside attorneys' fees and legal expenses, based upon (a) any breach of any of the terms of this Agreement

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by DEALER, any of its members, and/or their respective representatives, agents, employees and/or contractors, and/or (b) any other aspect of and/or relation to the DEALER Website (other than the content of the Manufacturer-Supplied Content). This indemnification and defense obligation is in addition to any such obligation pursuant to this Agreement.

5.3 Indemnity of DEALER and DEALER's Members by Alloy. Alloy will defend, indemnify and hold the DEALER, the DEALER's members, and their respective subsidiary, affiliated and parent companies, and their respective officers, directors, employees, agents, successors, assigns and representatives, harmless from and against all loss, liability, damage and expense, including reasonable outside attorneys' fees and legal expenses, based upon any breach of any of the terms of this Agreement by Alloy, and/or its representatives, agents, employees and/or contractors. This indemnification and defense obligation is in addition to any such obligation pursuant to this Agreement.

6.0 GENERAL PROVISIONS

6.1 Assign-ability. Without Alloy's prior written consent, neither the DEALER nor any of its members shall assign, transfer, pledge, hypothecate or otherwise dispose of this Agreement or any of its rights hereunder, nor delegate any of its obligations herein.

6.2 Applicable Law. This Agreement shall be governed by and construed according to the laws of the state of Alabama, without regard to conflicts of law principles therein.

6.3 Notices. All notices, demands, requests or other communications that may be or are required to be given hereunder shall be in writing and mailed by first-class registered or certified mail, return receipt requested, postage repaid, or transmitted by hand delivery, or by overnight delivery service, or by facsimile transmission followed by original hard copy via U.S. mail with the receiving party acknowledging receipt addressed as follows:

To Alloy: Alloy Digital
101 25th Street North,
Suite 200
Birmingham, Alabama 35203
Attn: Matt McKenzie
Tel.: 205-803-0000

To DEALER: At the address listed on the first page hereof, Billing Address

All notices shall be deemed effective upon receipt or refusal thereof.

6.4 Waiver of Default. Waiver by any party of any default by any of the other parties hereto of any of the terms and conditions of this Agreement shall not be deemed a waiver by such party of any other default.

6.5 Severability. If any of the provisions or any portion of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provisions or portion thereof.

6.6 Independent Parties. Nothing in this Agreement is intended to create, or shall be construed as creating, a joint venture, partnership, agency, or employer/employee relationship between and/or among Alloy, any Manufacturer supplying content and/or DEALER (or any of the DEALER members). This Agreement does not render any party hereto the agent or legal representative of the other for any purpose whatsoever. DEALER

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shall retain sole and exclusive right to control, direct and supervise the DEALER's employees, and the DEALER shall be the sole and exclusive employer of the persons employed by the DEALER. Alloy, the DEALER and any attached Manufacturer each agrees that no act or omission of Alloy, the DEALER or Manufacturer shall be construed to make or render them joint employers, co-employers or alter egos of each other.

- 6.7 Entire Agreement. This Agreement supersedes and replaces any and all prior agreements, understandings or arrangements, whether oral or written, heretofore made between and/or among the parties relating to the subject matter hereof, and constitutes the entire understanding of the parties with respect to the subject matter of this Agreement. This Agreement is intended to supplement the Website Services Agreement and the MSA. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and permitted assigns. This Agreement may not be altered or amended except by an express written agreement signed by all parties hereto.
- 6.8 Survival. The parties hereto hereby covenant and agree that, notwithstanding the termination of this Agreement as provided for herein or otherwise, the provisions of **Sections 1.0, 3.0, 4.0, 5.0, 6.3, 6.6 and 6.9** of this Agreement shall survive such termination and shall continue in full force and effect according to their terms.
- 6.9 Further Assurances. The parties will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents and things as may be reasonably required for the purpose of giving effect to this Agreement.
- 6.10 Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed to constitute an original, and all of which together shall constitute one and the same agreement.

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APPENDIX A – PACKAGE CONTENTS

BRONZE PACKAGE:

- Selection of a professional mobile friendly website template
- Ability to add 1 custom content page
- Ability to integrate with dealer's social media
- Ability to customize About Us, Hours of Operations, and Contact Us
- Built in flooring keywords
- 30 minutes of Support per year

SILVER PACKAGE:

All of the Bronze Package items plus:

- Ability to add 5 custom content pages
- Inclusion of the Branded Product Gallery
- Ability to customize the online financing information
- Ability to provide online appointment scheduling
- Ability to add Handyman and Designer content
- Ability to customize flooring keywords
- Ability to add 5 custom email addresses
- 200 minutes of Support per year

GOLD PACKAGE:

All of the Silver Package items plus:

- Ability to add unlimited custom content pages
- Ability to add multiple locations
- Receive Keyword ranking reports
- Ability to add 10 custom email addresses
- 360 minutes of Support per year

PLATINUM PACKAGE:

All of the Gold Package items plus:

- Mobile Applications (see Addendum B)
- Social Media Management (see Addendum C)

PRODUCT GALLERY:

Manufacturer-Specific Branded Product Gallery to provide buyers with access to all products provided by a specific Manufacturer in one location

- Ability to view, print, and email all product swatches
- Automatically updates as Manufacturer modifies their product line
- This functionality is dependent on the execution and active engagement of a Manufacturer-Specific Content Appendix.
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APPENDIX B – MOBILE APPLICATIONS

MOBILE APPLICATION PROVIDED FOR IPHONE AND ANDROID DOWNLOADS, INCLUDE:

- Dealer contact info
- Product Gallery
- Link to dealer's website
- Ability to customize business information, location and hours
- Ability to provide Promotions/deals for customers
- Option to share with friends
- Ability to link to social media including Pinterest, Twitter and Facebook

APPENDIX C – SOCIAL MEDIA MANAGEMENT

SOCIAL MEDIA MANAGEMENT PROVIDES THE ABILITY FOR PROMOTION OF CONTENT ON YOUR DEALER FACEBOOK AND/OR TWITTER ACCOUNTS, INCLUDING:

- Post non-unique Content to Facebook three times per week
- Post non-unique Content to dealer Twitter account three times per week
- Post unique Content to Facebook one time per month
- Post unique Content to dealer Twitter account one time per month
- Access to dealers account(s) is necessary. If Dealer does not have either or both of these account, they can be set up for you (for \$150 setup fee)

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MANUFACTURER-SUPPLIED CONTENT APPENDIX - MOHAWK

General Terms: Under a separate Master Services Agreement between MOHAWK and Alloy (the “MSA”), Alloy has been hired by MOHAWK to develop certain nationally-directed general content screen shots approved by MOHAWK that would be available for use by Dealers in the continental United States, subject to the terms and conditions herein (the “MOHAWK General Content”).

MOHAWK will permit Alloy to make the MOHAWK General Content available to DEALER solely based upon the terms and conditions set forth in this Agreement.

DEALER desires to use the MOHAWK General Content, and shall do so in compliance with, and subject to, the terms and conditions in this Agreement.

Use of MOHAWK General Content. MOHAWK will permit Alloy to make available to the DEALER on a non-exclusive, non-transferable basis, the MOHAWK General Content for use solely on the DEALER Website in accordance with the terms of this Agreement; provided, however, that MOHAWK shall not be responsible or liable for any other aspects of the DEALER Website, including without limitation, any local and/or special content, offers and/or text developed and/or provided by the DEALER, its members and/or Alloy. MOHAWK shall not be responsible and/or liable for any aspect of, and/or related to, the DEALER Website (other than the content of the MOHAWK General Content approved by MOHAWK), including without limitation, any sales, contacts and/or deals generated by the DEALER Website, even if the DEALER Website may be linked to any MOHAWK Internet site, including without limitation, www.MohawkFlooring.com.

MOHAWK is not responsible, liable and/or otherwise involved in any aspect of the goods and/or services to be provided by Alloy to DEALER under the DEALER Website Services Agreement, nor shall MOHAWK be responsible or liable for any other features of the DEALER Website and/or any goods and/or services offered thereon.

Right to Modify/Terminate MOHAWK General Content. MOHAWK reserves the right to modify and/or substitute the MOHAWK General Content, and/or terminate the permission to use the MOHAWK General Content, at any time, with or without notice, at MOHAWK’s sole discretion. Upon MOHAWK’s direction, Alloy and/or the DEALER shall immediately cause such modification, substitution and/or termination to occur on the DEALER Website.

Ownership of MOHAWK General Content; Derivative Works. Title to the MOHAWK General Content is and shall remain with MOHAWK at all times. Neither Alloy nor the DEALER (nor any of its members) shall make, or permit others to make, any modifications and/or substitutions to, and/or derivative works of, the MOHAWK General Content without the express written consent of MOHAWK in each instance. All rights to such modifications, substitutions and/or derivative works of the MOHAWK General Content shall be owned solely by MOHAWK, unless otherwise specifically agreed in writing by MOHAWK.

Responsibility for Costs - DEALER shall be responsible and liable for any and all costs, liabilities and/or expenses of using the MOHAWK General Content as contemplated hereunder, including without limitation, any costs to replicate the MOHAWK General Content onto the DEALER Website and/or to host the DEALER Website.

No Warranties/Limitation Of Liabilities – DEALER and its members assume the risk that the MOHAWK General Content will not operate as expected and may cause technical difficulties with the DEALER's and/or its members’ past, existing and/or future computer equipment or programs, databases, systems and/or other business operations. MOHAWK provides no warranties to dealer and/or any of the DEALER’s members of any kind with respect to the MOHAWK general content. In the event of a defect in the MOHAWK General Content, MOHAWK shall have the option of either modifying or replacing the defective MOHAWK General Content, or terminating the use of the MOHAWK General Content and/or this agreement in MOHAWK’s sole discretion. The warranty set forth above is exclusive and in lieu of all others, oral or written, express or implied. MOHAWK makes no warranty or representation, express, implied, statutory or otherwise, with respect to the MOHAWK General Content, its quality,

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performance, merchantability or fitness for a particular purpose. The MOHAWK General Content is delivered "as is," and the dealer and its members assume the entire risk as to its quality and performance.

in no event shall MOHAWK be liable for direct or indirect, special, incidental, consequential or punitive damages of any kind, including, but not limited to, loss of use, lost profits, interruption of business, cost of substituted facilities, equipment or service, down-time costs, or claims of customers of any dealer and/or any members of the dealer for damages arising under this agreement or deriving from the MOHAWK General Content, irrespective of how such damages may be caused, whether or not because of negligence, strict liability, fault or delay of MOHAWK, or its breach or failure of performance hereunder, even if MOHAWK has been advised of the possibility of such damages, or for any claim against the dealer or its members by any other party.

Independent Parties. Nothing in this Agreement is intended to create, or shall be construed as creating, a joint venture, partnership, agency, or employer/employee relationship between and/or among Alloy, Mohawk and/or DEALER (or any of the DEALER members). This Agreement does not render any party hereto the agent or legal representative of the other for any purpose whatsoever. DEALER shall retain sole and exclusive right to control, direct and supervise the DEALER's employees, and the DEALER shall be the sole and exclusive employer of the persons employed by the DEALER. Alloy, the DEALER and any Mohawk each agrees that no act or omission of Alloy, the DEALER or Mohawk shall be construed to make or render them joint employers, co-employers or alter egos of each other.

Indemnity of DEALER and DEALER's Members by MOHAWK. MOHAWK will defend, indemnify and hold the DEALER and its members, and their respective officers, directors, employees, agents, successors, assigns and representatives, harmless from and against any and all loss, damage, expense or liability, including reasonable outside attorneys' fees and legal expenses, based upon any claim against DEALER and/or the DEALER's members to the extent alleging that the content of the MOHAWK General Content approved by MOHAWK infringes on any patent, trademark and/or copyright right of any third party. Any indemnification and/or defense obligation of Alloy by MOHAWK shall be pursuant to the terms of the MSA.

Indemnity of MOHAWK and Alloy by DEALER and DEALER's Members. DEALER and each of the DEALER's members, jointly and severally, will defend, indemnify and hold MOHAWK, Alloy and their respective subsidiary, affiliated and parent companies, and their respective officers, directors, employees, agents, successors, assigns and representatives, harmless from and against all loss, liability, damage and expense, including reasonable outside attorneys' fees and legal expenses, based upon (a) any breach of any of the terms of this Agreement by DEALER, any of its members, and/or their respective representatives, agents, employees and/or contractors, and/or (b) any other aspect of and/or relation to the DEALER Website (other than the content of the MOHAWK General Content). This indemnification and defense obligation is in addition to any such obligation pursuant to the DEALER Website Services Agreement.

Indemnity of DEALER, DEALER's Members and MOHAWK by Alloy. Alloy will defend, indemnify and hold MOHAWK, the DEALER, the DEALER's members, and their respective subsidiary, affiliated and parent companies, and their respective officers, directors, employees, agents, successors, assigns and representatives, harmless from and against all loss, liability, damage and expense, including reasonable outside attorneys' fees and legal expenses, based upon any breach of any of the terms of this Agreement by Alloy, and/or its representatives, agents, employees and/or contractors. This indemnification and defense obligation is in addition to any such obligation pursuant to the DEALER Website Services Agreement and/or the MSA.