

# Alternative Capital, Inc.



## CLIENT SERVICES AGREEMENT

This Client Services Agreement (“Agreement”) is entered into on this Effective Date and sets forth the terms and conditions whereby Alternative Capital, Inc., a Delaware limited liability company located at 3645 Marketplce Blvd. Suite 130-515, East Point, GA 30344, (“ALTERNATIVE CAPITAL”), agrees to provide Services for the Client (collectively the “Parties”) as stated below.

Effective Date	
Client (legal entity name)	
Client Corporate Address	
Client Entity FEIN	
Client Email Address	

In consideration of the mutual promises and covenants contained in this Agreement, including the terms set forth in Schedule I and Schedule II, the adequacy and sufficiency of which is hereby acknowledged, the Parties agree to be bound as follows:

### 1. SERVICES.

- 1.1 The Client hereby engages ALTERNATIVE CAPITAL, and ALTERNATIVE CAPITAL hereby accepts such engagement, as an independent contractor to provide certain specialty and consulting services in relation to employee retention tax credits (“ERCs”) to the Client on the terms and conditions set forth in this Agreement. Primarily, ALTERNATIVE CAPITAL shall advise Client and facilitate all parts of the process in determining Client eligibility for ERCs and associated calculations and analysis, including but not limited to (1) discussions with Client on ERCs and providing answers to any Client inquiries (2) identifying qualified and licensed third-party experts and facilitating engagement with them to perform all sensitive ERC analysis and calculations, (3) facilitating various administrative tasks, such as document collection, ERC analysis progress tracking, delivery of final report, and monitoring of ERC refund check timing with the IRS.
- 1.2 The Client expressly acknowledges and understands that the Services provided by ALTERNATIVE CAPITAL pursuant to this Agreement cannot be relied upon to detect any errors, fraud, deficiencies or material weaknesses in the Client’s own internal processes or controls, or any illegal conduct or acts that may exist with respect to the Client’s business.
- 1.3 The Client acknowledges and understands that the Services provided by ALTERNATIVE CAPITAL pursuant to this Agreement shall rely upon the information provided by the Client to ALTERNATIVE CAPITAL as factual basis, and that ALTERNATIVE CAPITAL is not obligated to independently confirm the correctness or accuracy of such information provided by Client.
- 1.4 The Client acknowledges and understands that ALTERNATIVE CAPITAL will not provide, perform, undertake and/or implement any management functions or management decisions for the Client, nor shall ALTERNATIVE CAPITAL have any responsibility or authority to make, undertake and/or implement any management or business decisions for the Client in any capacity, including but not limited to any decisions based on or relating to the Services (the “Management Decisions”). Instead, the Client shall at all times retain the sole responsibility and authority with respect to any Management Decisions during the Term of this Agreement.
- 1.5 Unless otherwise set forth in this Agreement, ALTERNATIVE CAPITAL shall furnish, at its own expense, the equipment, supplies, and other materials used to perform the Services. The Client shall provide

ALTERNATIVE CAPITAL with access to its premises, equipment, and other support to the extent necessary to perform the Services.

1.6 The Parties agree that any materials or information provided by ALTERNATIVE CAPITAL to the Client in connection with the Services, including but not limited to financial information, projections, budgets, forecasts, insights, suggestions, advice and/or recommendations (the "Services Information"), are intended solely for Client's internal business use and are not intended for use by or disclosure to any third parties. For this reason, the Parties understand and agree that any Services Information provided by ALTERNATIVE CAPITAL during the Term of this Agreement will not include any disclosures that may be required by Generally Accepted Accounting Procedures ("GAAP") for external use financial statements issued to third parties, nor shall ALTERNATIVE CAPITAL have any responsibility or obligation to audit, review or express any opinion regarding any Services Information provided to Client. Furthermore, the Parties understand and agree that, unless expressly requested by Client in writing, ALTERNATIVE CAPITAL shall have no obligation or responsibility to provide or notify the Client of any changes to any projections, budgets or forecasts provided in connection with the Services under this Agreement.

1.7 The Client acknowledges and consents to executing an IRS Form 8821 provided by ALTERNATIVE CAPITAL for the purpose of tracking the status of the ERC refund check with the IRS. ALTERNATIVE CAPITAL will provide timing updates to the Client when available.

2. TERM. The term of this Agreement shall commence on the Effective Date and shall continue until expired or terminated in accordance with this Agreement (the "Term").

3. FEES AND EXPENSES.

3.1 As compensation for the Services and the rights granted to the Client in this Agreement, the Client shall pay ALTERNATIVE CAPITAL professional fees (the "Fees") equal to 25% multiplied by the gross amount of the ERC refunds that Client is deemed eligible for by the IRS, regardless of the amount of time spent or specific employees consulted for by ALTERNATIVE CAPITAL.

3.2 Upon Client receipt of the ERC refunds, ALTERNATIVE CAPITAL shall be entitled to the Fees. Client agrees to pay the Fees to ALTERNATIVE CAPITAL within ten (10) days of receiving the ERC refunds. Client shall furnish an IRS Form 1099-MISC to ALTERNATIVE CAPITAL for such Fees. ALTERNATIVE CAPITAL shall be solely responsible for all of its federal, state, and local taxes on such Fees. This section shall survive the Term of the Agreement.

3.3 Fees not paid by Client within thirty (30) calendar days after ALTERNATIVE CAPITAL presents an invoice will bear a late fee equal to 1.5% of the outstanding Fee amount per month. Should the Client fail to timely pay any Fees, ALTERNATIVE CAPITAL reserves the right to terminate this Agreement and/or withhold from providing any additional Services until such Fees are paid.

4. RELATIONSHIP OF THE PARTIES. ALTERNATIVE CAPITAL is an independent contractor of the Client, and this Agreement shall not be construed to create any association, partnership, joint venture, employee, or agency relationship between ALTERNATIVE CAPITAL and the Client for any purpose. Except as authorized by the Client in writing, ALTERNATIVE CAPITAL shall have no authority to bind the Client and ALTERNATIVE CAPITAL shall not make any agreements or representations on the Client's behalf without the Client's prior written consent.

5. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

ACCEPTED AND AGREED:

\_\_\_\_\_

ALTERNATIVE CAPITAL, INC.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

## **Schedule I: Terms and Conditions**

1. CONFIDENTIALITY. ALTERNATIVE CAPITAL acknowledges that ALTERNATIVE CAPITAL will have access to information that is treated as confidential and proprietary by the Client and is that not generally available to the public, including the Client's financial and personnel information (collectively, the "Confidential Information"). ALTERNATIVE CAPITAL agrees to treat all Confidential Information as confidential and not to disclose Confidential Information to third parties except as required in the performance of the Services, and such third parties shall also be bound by the terms of this section. Confidential Information shall not include information that is or becomes generally available to the public other than through breach of this Agreement, or is communicated to ALTERNATIVE CAPITAL by a third party that had no confidentiality obligations with respect to such information. Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order.

### 2. REPRESENTATIONS AND WARRANTIES.

2.1 ALTERNATIVE CAPITAL represents and warrants to the Client that:

- (a) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder;
- (b) entering into this Agreement does not and will not conflict with or result in any breach or default under any other agreement to which ALTERNATIVE CAPITAL is subject;
- (c) ALTERNATIVE CAPITAL has the required skill, experience, and qualifications to perform the Services and will perform the Services in a professional manner in accordance with generally-recognized industry standards for similar services. **Notwithstanding the foregoing, ALTERNATIVE CAPITAL expressly declares that it is not a legal or financial firm and is not, and does not represent itself as, a licensed or registered law, accounting, financial, or tax firm;** and
- (d) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action.

2.2 The Client hereby represents and warrants to ALTERNATIVE CAPITAL that:

- (a) it will provide only truthful information to ALTERNATIVE CAPITAL regarding Client's business, will not omit material facts or information, and seeks ALTERNATIVE CAPITAL's services only for lawful purposes;
- (b) it will use its best efforts to cooperate with ALTERNATIVE CAPITAL, including timely responding to inquiries, information requests, and communications from ALTERNATIVE CAPITAL;
- (c) upon reasonable request by ALTERNATIVE CAPITAL, it will provide ALTERNATIVE CAPITAL with access to the Client's financial records

and documents for the purpose of determining the Fees due and payable to ALTERNATIVE CAPITAL under this Agreement;

- (d) if it discloses or provides any Services Information to third parties, it will identify such information solely as the Client's own internal business information and will not identify, represent or otherwise hold out such information as the insights, suggestions, advice, recommendations and/or consulting services of ALTERNATIVE CAPITAL;
- (e) it has not previously filed to claim ERC refunds with the IRS, either directly or indirectly via Form 7200, Form 941, or Form 941X, and regardless if the ERC refund has been received or not, unless Client has expressly stated to ALTERNATIVE CAPITAL that it has indeed previously filed to claim ERC refunds.
- (f) entering into this Agreement does not and will not conflict with or result in any breach or default under any other agreement to which the Client is subject;
- (g) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder; and
- (h) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action.
- (i) if the Client provides or discloses any Services Information to third parties, the Client will not identify, represent or otherwise hold out such Services Information as the insights, suggestions, advice, recommendations and/or consulting services of ALTERNATIVE CAPITAL. Instead, the Client will:
  - (i) identify such Services Information as the Client's own internal business information, and
  - (ii) inform any third parties that the information is not intended for use or reliance by such third parties.

3. COVENANTS. The Client hereby agrees that it will promptly and without delay notify ALTERNATIVE CAPITAL when ERC refunds are received from the IRS.

### 4. INDEMNIFICATION.

4.1 ALTERNATIVE CAPITAL Indemnification Duties. ALTERNATIVE CAPITAL shall defend, indemnify, and hold harmless the Client, including its officers, directors, employees, agents, successors and assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from (1) bodily injury, death of any person, or damage to real or tangible personal property resulting from ALTERNATIVE CAPITAL's intentional acts or omissions, and (2) ALTERNATIVE CAPITAL's breach of any representation, warranty, or obligation under this Agreement.

4.2 Client Indemnification Duties. The Client shall defend, indemnify, and hold harmless ALTERNATIVE CAPITAL, including its officers, directors, members, employees,

agents, successors and assigns from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from:

- (a) bodily injury, death of any person, or damage to real or tangible personal property resulting from the Client's intentional acts or omissions;
- (b) the Client's ownership and operation of its business and any business or management decisions made or implemented by the Client, including but not limited to the Management Decisions (as defined above) and any other decisions based on or relating to the Services provided by ALTERNATIVE CAPITAL and/or any Services Information provided by ALTERNATIVE CAPITAL;
- (c) the Client's use of any Services Information provided by ALTERNATIVE CAPITAL or the Client's disclosure of any Services Information to third parties;
- (d) the Client's breach of any contractual or legal obligation to any third party;
- (e) the Client's breach of any representation, warranty, or obligation under this Agreement;
- (f) the Client's failure to timely pay Fees as required by this Agreement and any actions taken by ALTERNATIVE CAPITAL to secure payment of such Fees by the Client; and
- (g) the Parties' contractual relationship under this Agreement, except as otherwise provided in Section 7.1 above.

5. **LIMITATION OF LIABILITY.** Neither party shall be liable to the other party for any consequential damages, including any loss of business profits, business interruption, or special damages, incidental, exemplary, punitive or indirect damages arising from or relating to this agreement, regardless of how caused or the theory of liability pursued. This limitation shall apply even if such party has been advised of or is aware of the possibility of such damages. Notwithstanding the foregoing and with the exception of fees due under this agreement, neither party shall be liable to the other party for any amounts in excess of the fees actually paid under this agreement.

6. **INSURANCE.** During the Term, ALTERNATIVE CAPITAL shall maintain in force adequate general liability insurance, and other forms of insurance, as required by law.

7. **TERMINATION.**

7.1 This Agreement shall automatically expire upon the completion of the Services and ALTERNATIVE CAPITAL's receipt of the final payment for Fees, or shall terminate with notice by ALTERNATIVE CAPITAL per this Section, whichever event (expiration or termination) occurs earliest. ALTERNATIVE CAPITAL may terminate the Agreement immediately with Cause upon written notice to the other Party or without Cause upon 30 days' written notice to the other Party. "Cause" shall mean the Client's

breach of any representation or warranty in Section 6 and/or the Client's failure to timely pay any Fees as provided in Section. Unless otherwise set forth in this Agreement:

- (a) in the event of termination without Cause by ALTERNATIVE CAPITAL, no further Fees shall be paid by Client, and ALTERNATIVE CAPITAL shall not refund or owe any refunded Fees already paid by the Client; and
- (b) in the event of termination with Cause by ALTERNATIVE CAPITAL, the Client shall pay all Fees contemplated under the Agreement upon ALTERNATIVE CAPITAL's final invoicing.
- (c) Upon expiration or termination of this Agreement for any reason, ALTERNATIVE CAPITAL shall within 21 calendar days after such expiration or termination:
- (d) deliver to the Client all equipment or other materials belonging to Client provided for ALTERNATIVE CAPITAL's use by the Client; and
- (e) deliver to the Client all tangible documents and materials (and any copies) containing Confidential Information;

7.2 The terms and conditions of this clause and Section, Section, Section, Section, Section 11, Section, Section, and Section shall survive the expiration or termination of this Agreement.

8. **OTHER BUSINESS ACTIVITIES.** As an independent contractor, ALTERNATIVE CAPITAL may be engaged or employed in any other business, trade, profession, or other activity simultaneously while performing Services under this Agreement or for the Client.

9. **ASSIGNMENT.** ALTERNATIVE CAPITAL shall not assign any rights, or delegate or subcontract any obligations, under this Agreement without the Client's prior written consent. The Client may freely assign its rights and obligations under this Agreement to its successor as applicable. Subject to the limits on assignment stated above, this Agreement will inure to the benefit of, be binding on, and be enforceable against each of the Parties hereto and their respective successors and assigns.

10. **ARBITRATION**

10.1 Any dispute, controversy, or claim arising out of or related to this Agreement or any breach or termination of this Agreement, including the provision of Services by ALTERNATIVE CAPITAL to the Client, shall be submitted to and decided by binding arbitration. Arbitration shall be administered exclusively by JAMS and shall be conducted consistent with the rules, regulations, and requirements thereof as well as any requirements imposed by state law. Any arbitral award determination shall be final and binding upon the Parties. Arbitration shall proceed only on an individual basis. The Parties waive the right to assert, participate in, or receive money or any other relief from any class, collective, or representative proceeding. Each party shall only submit their own individual claims against the other and will not seek to

represent the interests of any other person. Notwithstanding anything to the contrary in the Expedited Arbitration Procedures, no arbitrator shall have jurisdiction or authority to compel any class or collective claim, to consolidate different arbitration proceedings, or to join any other party to an arbitration between the Parties.

11. **GOVERNING LAW, JURISDICTION, AND VENUE.** This Agreement and all related documents are governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware. Any action or proceeding, including arbitration, by either Party to enforce this Agreement shall be brought only in the State of Delaware. The Parties hereby irrevocably submit to the exclusive jurisdiction of courts or arbitration in the State of Delaware and waive the defense of inconvenient forum to the maintenance of any action or proceeding in such venue. The prevailing party shall be entitled to reasonable costs and attorneys' fees.

12. **MISCELLANEOUS.**

12.1 All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all

fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid), with a copy by email. A Notice is effective when sent if the Party giving the Notice has complied with the requirements of this Section.

12.2 This Agreement, together with any other documents incorporated herein by reference, and related exhibits and schedules, constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

12.3 This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto, and any of the terms thereof may be waived only by a written document signed by each party to this Agreement or, in the case of waiver, by the party or parties waiving compliance.

12.4 If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

12.5 This Agreement may be executed in multiple counterparts and by facsimile or email signature, each of which shall be deemed an original and all of which together shall constitute one instrument

**Schedule II: CPA Engagement Letter**

**THOMAS MCNULTY CPA LLC**

245 NASSAU STREET, PRINCETON, NJ 08540 TOM@MCNULTYCPA.COM  
Phone: (609)497-1040 | Fax: (609)497-1065

Client: \_\_\_\_\_  
Client Address: \_\_\_\_\_

Date: \_\_\_\_\_

Subject: Preparation of Your Employee Retention Credit Refund Claims

Thank you for choosing THOMAS MCNULTY CPA LLC to assist you with your employee retention credit refund claim filings. This letter confirms the terms of our engagement with you and outlines the nature and extent of our provided services.

We will review your business' eligibility for employee retention credits, calculate the amount of such credits, and prepare and file the necessary tax filings to claim the credits as refunds. We will depend on you to provide the information we need to prepare complete and accurate returns. We may ask you to clarify some items but will not audit or otherwise verify the data you submit.

We will perform accounting services only as needed to complete our analysis of your business' employee retention credits. Our work will not include procedures to find defalcations or other irregularities. Accordingly, our engagement should not be relied upon to disclose errors, fraud, or other illegal acts, though it may be necessary for you to clarify some of the information you submit. We will inform you of any material errors, fraud, or other illegal acts we discover. The law imposes penalties when taxpayers underestimate their tax liability. Call us if you have concerns about such penalties.

Should we encounter instances of unclear tax law or of potential conflicts in the interpretation of the law, we will outline reasonable courses of action and the risks and consequences of each. We will ultimately adopt, on your behalf, the alternative you select.

Our fee is based on the time required at standard billing rates plus out-of-pocket expenses. As described in the Client Services Agreement between you and Alternative Capital, Inc., you acknowledge and consent that Alternative Capital, Inc. shall pay all of our fees and expenses. Invoices are due and payable by Alternative Capital, Inc. upon presentation. All accounts not paid within thirty (30) days are subject to interest charges to the extent permitted by state law.

We will return your original records to you at the end of this engagement. Store these records, along with all supporting documents, in a secure location. We retain copies of your records and our work papers from your engagement for up to seven years, after which these documents will be destroyed.

Review all tax-return documents carefully before signing them. Our engagement will conclude with the delivery of the completed filings to you with your signature and our subsequent submittal of your filings to claim the appropriate employee retention credits.

To affirm that this letter correctly summarizes your understanding of the arrangements for this work, sign the enclosed copy of this letter in the space indicated and return it to us. Thank you for the opportunity to be of service. If you have any questions, contact our office at (609) 497-1040.

Sincerely,

THOMAS MCNULTY CPA LLC

  
\_\_\_\_\_

Name: Thomas McNulty, CPA

Accepted By:

Client: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_