

ADDITIONAL TERMS AND CONDITIONS

1. Definitions.

- 1.1. “Ad” means any advertisement, including all creative work provided to Company by Advertiser.
- 1.2. “Additional Terms and Conditions” shall also mean “Terms”.
- 1.3. “Advertiser” shall mean the company referenced above in the IO, which is requesting the advertising or campaigns. It shall also include all subsidiaries their past, present and future direct and indirect subsidiaries, affiliates, parent entities, joint ventures, employees, officers, directors, shareholders, principals, agents, attorneys, representatives, predecessors, successors and/or assigns, and each of their respective past and present subsidiaries, affiliates, parent entities, joint ventures, officers, directors, shareholders, principals, agents, representatives, predecessors, successors and/or assigns.
- 1.4. “Campaign” means a series of Ads, emails or offers (delivered either via Ad or via email) of Advertiser.
- 1.5. “Click” means any visitor or third party lands on Advertiser’s website at the direction of Company.
- 1.6. “Company” means Company Name as defined on first page of the IO
- 1.7. “IO” means the Insertion Order, which will set forth all details regarding the Ad or Campaign, including but not limited to compensation to Company, graphics, etc. The “IO” expressly incorporates all the Additional Terms and Conditions contained in this document.
- 1.8. “Inbound Call” means an inbound call generated by Company for Advertiser.
- 1.9. “Network” means the broker who facilitates business between advertisers and publishers.
- 1.10. “Outbound Lead” means any lead generated for Advertiser either on Advertisers page OR a lead that is hosted on Company’s page and posted to Advertiser
- 1.11. “Payout” means the charge for each outbound lead, inbound call, click or sale or other product provided by Company.
- 1.12. “Publisher” means the marketers and/or publishers participating in the network and using the systems and processes of Company receiving Ad materials and advertising on behalf of Advertiser.
- 1.13. “Service” means the business methods, practices, processes, technologies, network systems and venue Advertiser uses to provide to Publishers advertising opportunities for the sale of its advertising goods or services.
- 1.14. “Sale” means the generation of a sale by Company.

1.15. “Start date” means the date the promotion is started.

2. **Advertiser Creative and Advertiser Website.**

2.1. Creative. Advertiser will provide Company with the creative materials for the Ads and/or Campaigns, including product/service descriptions, graphic images, logos, and copy (the “Copy”), at least ten (10) days prior to Company’s posting of such Ads and/or Campaigns on the Company’s website (“Company Site”).

2.1.1. To the extent the Campaign involves emails, the Copy shall also include subject and from lines, offer description (in text and HTML formats), terms and conditions (if applicable), and any other information necessary to comply with applicable state and federal laws and regulations including, but not limited to, the CAN-SPAM Act of 2003 (the “Act”). Advertiser will submit changes or cancellations of any creative materials in writing to Company at least ten (10) business days in advance of requested change date.

2.2. Licenses. Advertiser grants Company an exclusive license to use, reproduce, publicly and digitally display and perform, transmit and broadcast Advertiser's name, logos, trademarks, trade names, service marks, URLs and slogans to display, market, promote and publicize Ads on the Service, and for the purpose of including Advertiser in Company’s marketing and promotional materials. Advertiser further grants to Company and Publishers a personal, non-exclusive, revocable, non-transferable, limited license to all intellectual property rights owned or controlled by Advertiser (including but not limited to copyrights, trademarks, and service marks) solely to the extent that such license is required for performance of the Service in accordance with these Terms. Such License will terminate upon thirty (30) day notice to Company via written instrument. Upon the termination of the License by Advertiser, Company will maintain and be entitled to an irrevocable limited license allowing Company to display Advertiser’s name, logo, and other trademarks or service marks, reviews of Advertiser’s products or services on any websites operated by Company or its affiliates or related entities. Through this limited license Company will maintain the right to change any of the content on Company’s websites relating to Advertiser at the Company’s sole discretion. Advertiser shall have no right to demand the removal of Advertiser’s name, logo, or other trademarks or service marks or any information relating to Advertiser from Company’s websites.

2.3. Advertiser Website. Advertiser shall make best efforts to keep the Advertiser website generally available 24 hours a day, 7 days a week, in order to ensure that a prospective customer referred by Advertisers and taking the defined action, including the purchase, registration, generation of a sales lead and any other action related to the Ad and/or Campaign (“User Action”) may be properly processed. Advertiser must notify Company at least ten (10) days in advance for

any scheduled downtime so that Company has adequate time to notify Publishers who are actively engaged in running the applicable Ads and/or Campaigns. Should Advertiser's website be unavailable for any reason other than properly scheduled downtime, Advertiser will pay for all payable Units that would have been generated during such time. Payable units due will be determined by the amount of traffic sent to Advertiser's site and shall be equal to the highest "click to conversion" rate during any 24 hour period during the Campaign, or if such is unavailable, then a reasonable "click to conversion" rate as determined by Company in its sole discretion will be determined. In the event of unscheduled downtime, Company reserves the right, in its sole discretion, to recommend to Publishers, and otherwise effectuate, the redirection of traffic away from Advertiser's website during any period in which it is not available and for such other period of time deemed advised and appropriate by Company.

- 2.4. CPL Tracking. With respect to all cost per lead ("CPL") campaigns, Advertiser will provide Company with posting instructions describing where to post the received data to the Advertiser. Advertiser will allow Company online access to the statistics regarding such User Actions ordered and aggregated by unique tracking link. Advertiser will provide access to records as they become available that will allow Company to monitor the volume of User Actions Publishers have generated. In the event that no online tracking is available for Company's use, then Advertiser agrees to provide Company with statistics regarding User Actions generated within a reasonable time for Advertiser's review.
- 2.5. CPM and CPC Tracking. With respect to all other Campaigns, including cost per impression ("CPM"), cost per click ("CPC") and co-registration campaigns, Company shall be solely responsible for calculating the User Actions that comply with the terms of the applicable IO.
- 2.6. Suppression Lists. To the extent that Advertiser receives, via email, website or other media, a message from a third party user that such user wishes to unsubscribe or opt-out of receiving any Ads and/or Campaigns, Advertiser will provide Company with a suppression list of such opt-outs and unsubscribes ("Suppression List") no more than one (1) business days after receiving such transmission from the third party user. Company shall then promptly communicate the Suppression List contents to the Publishers in Advertiser's network.
- 2.7. In the event that it is required that Company digitally sign or agree to additional terms when using Advertiser's affiliate marketing website, both Advertiser and Company acknowledge and agree that such agreement is inconsequential and in no way binding, and that it is the result of a technical requirement, which cannot be altered, in order to view stats and access creatives. Therefore, any terms which appear on Advertiser's website are to be disregarded and deemed non-effective and shall be superseded by these Terms and the IO.

3. **Company Service and Site.** Company agrees to provide the Service whereby Publishers are provided access to Ads and/or Campaigns. Company reserves the right to unilaterally make changes to the Company Site and to these terms at any time. Advertiser's continued use of the Service after any such modification and notification thereof shall constitute its explicit consent to such modification. Further, Advertiser has access to read the Terms at any time.
4. **Term and Termination.**
 - 4.1. Company may terminate the IO, any agreement with Advertiser or these Terms in whole or in part, or any Campaign or Ads, without notice or liability, for any reason or for no reason, at any time.
 - 4.2. In the event of termination of the IO, any agreement or Ad Campaign by Company, these Terms will continue to govern the relationship between Company and Advertiser.
 - 4.3. In the event of written termination by Company and/or if these Terms expire by its own terms, Advertiser will immediately discontinue use of the Service.
5. **Confidential Information.**
 - 5.1. The Parties agree that they may exchange confidential, proprietary information related to Services, including email addresses, trade secrets, know-how and confidential information (collectively "Confidential Information"). Each Party agrees to use the other Party's Confidential Information solely for the purposes contemplated by the proposed Services, including the IO. Confidential Information shall include the terms and existence of these Terms and the IO. During the Term of the Parties business relationship and at all times after its termination, each Party and its employees and agents shall maintain the confidentiality of the Confidential Information of the other Party and not sell, license, publish, display, distribute, disclose or otherwise make available such Confidential Information to any third party nor use such Confidential Information except as authorized by these Terms. Neither Party shall disclose any such Confidential Information other than to employees, agents and permitted contractors of such party who reasonably need to know such Confidential Information in connection with the exercise of rights or the performance of obligations under these Terms without the prior written consent of the other Party. The identity of Company's service providers, advertisers and business partners and relationships is Company's Confidential Information and shall be treated in accordance with this section.
 - 5.2. Notwithstanding the foregoing, provided that the receiving Party uses reasonable efforts to give the disclosing Party reasonable advance notice thereof so as to afford the disclosing party an opportunity to intervene and seek an order or other appropriate relief for the protection of its Confidential Information from any

unauthorized use or disclosure, either Party may disclose Confidential Information: (a) as required by a properly authorized and authenticated governmental request; (b) in response to a subpoena or court order; or (c) to comply with applicable laws, rules or regulations. The obligations of the Parties set forth herein shall not apply to any information that: (a) is in the public domain at or after the time it was disclosed by the disclosing Party to the receiving Party through no fault of the receiving Party; (b) was rightfully in the receiving Party's possession free of any obligation of confidentiality at or after the time it was communicated to by the disclosing Party; (c) is disclosed with the prior written approval of the disclosing Party; (d) is independently developed by the receiving Party without reference to or use of the Confidential Information; (e) is or becomes available to the receiving Party from a person other than the disclosing Party or any of its Representatives who is not bound by an obligation to maintain the confidentiality of such information; (f) is necessary to disclose in order to establish the rights of either Party under these Terms; or (g) is required to be disclosed pursuant to an order or requirement of a court, administrative agency or governmental body, provided that the receiving Party shall promptly notify the disclosing Party of the facts thereof to enable the disclosing Party to seek a protective order or otherwise prevent or restrict disclosure of such information, and upon request of the disclosing Party, shall reasonably cooperate with the disclosing Party (at the disclosing Party's sole cost and expense) to obtain such protective order or other appropriate remedy. In the event that no such protective order or other remedy is obtained, or the disclosing Party waives compliance (in whole or in part) with the terms and conditions of these Terms, the receiving Party shall disclose only that portion of the Confidential Information that is required to be disclosed and shall use all reasonable efforts to ensure that all Confidential Information that is disclosed, shall be accorded confidential treatment.

6. Representations, Warranties and Indemnification.

- 6.1. Company is an independent venue comprised of systems, processes, rules, and networking solutions and technologies and is an independent party. Nothing herein is to be construed as creating a joint venture, partnership, agency relationship, or otherwise imply joint ownership.
- 6.2. Without limiting Section 6.1 above, the parties warrant and represent at all times that to the best of their knowledge they: (a) have all necessary rights and authority to agree to these Terms and to grant Company the licenses granted herein; (b) the execution of the IO and the incorporation of these Terms, and the performance of its obligations and duties hereunder, does not and will not violate any agreement to which they are a party or by which it is otherwise bound.
- 6.3. Without limiting Section 6.1 above, the Advertiser warrants and represents at all times that: (a) the Suppression List Advertiser provides is accurate and complete; (b) the links contained in any Ads and/or Campaigns are directed to the intended

and agreed upon destination and are not re-directed; (d) the Advertisements, the use and display thereof, and the content linked to and from such Advertisements will not: (i) infringe or violate the patents, copyrights, trademarks, rights of publicity, rights of privacy, moral rights, music performance or other music-related rights, or any other right of any third party; (ii) be misrepresentative, libelous, defamatory, obscene, or otherwise inappropriate; (iii) violate any applicable law or regulation; or (iv) advertise the unlawful sale of any product or service. Further, to the extent that Advertiser has requested that Company create and develop certain Ads, Advertiser acknowledges that it has been given and will continue to be given the opportunity to reject such Ads, and has approved the Ads and accepted all liability connected to such Ads.

- 6.4. With respect to a Campaign involving emails, Advertiser further represents and warrants, that Advertiser has the power and authority to bind itself and any Agency to these representations and warranties, that Advertiser will comply with all aspects of the CAN-SPAM Act of 2003, and Advertiser will not submit a Campaign for transmission of any email: (a) with misleading or fraudulent header information or with a “from line” that is materially false or misleading and does not accurately identify the person sending the email; (b) with a subject line that is misleading, false or misrepresentative or is likely to mislead the recipient about the content of the email; (c) that does not include a functioning return email address, clearly and conspicuously displayed, that can be used to submit a reply email message requesting not to receive future commercial electronic mail messages from the sender at the email address where the message was received and that also remains capable of receiving such messages for no less than 30 days after the transmission of such message; (d) that does not include a clear and conspicuous identification that the email is an advertisement or solicitation, a clear and conspicuous notice of the opportunity to decline to receive further communications, and a valid physical postal address of the Advertiser and Publisher; or (e) with any content that: (i) infringes or violates any intellectual, proprietary or privacy rights as set forth in Section 6.2 above; or (ii) is misrepresentative, defamatory or violates any applicable law or regulation as set forth in Section 6.2 of these Terms. Advertiser also represents and warrants that it will not transmit a Campaign including an email to any individual that has requested not to receive any emails more than ten (10) days after receipt of such request, provided that the email falls within the scope of the request. To the extent any duties arising under, but strictly limited to, the Services as defined herein, Company agrees to comply with the CAN-SPAM Act of 2003 and contractually to bind its Publishers to terms at least as restrictive as those contained therein concerning their email practices and modification of Advertiser-approved creatives, provided, however, that neither Company nor its Publishers will be responsible for the content of Advertiser’s approved creatives or Advertiser’s failure to timely update Company’s Suppression List as described herein.

- 6.5. Advertiser agrees to indemnify, defend and hold harmless Company and its respective subsidiaries, agents, partners, officers, directors and employees from and against any third party's loss, cost, claim, injury or damage (including reasonable attorneys' fees and costs) resulting from claims or actions arising out of or in connection with the Ads and/or Advertiser's breach of these Terms, and for consequence arising out of: (i) Advertiser's failure to timely provide Company with an accurate and complete Suppression List; (ii) Publishers' failures to scrub its database against the Suppression List provided by Advertiser; and/or (iii) any violations of Advertiser's Privacy Policy in Company's delivery of the Suppression List to Publishers.

7. **Payments.**

- 7.1. Advertiser appoints and authorizes Company to receive and distribute, on its behalf, payment to Publishers, and Advertiser will include in such payments the fees due Company hereunder ("Payment Obligation"). Company shall, as an accommodation to Advertiser, aggregate billing and invoicing from Advertiser's Publishers and present Advertiser with a report setting forth all income generating activity. Unless otherwise specified in the IO, Company's aggregation of billing activity is based on a calendar week (i.e., beginning on Monday of each week and ending on Sunday of each week), and payment for all User Actions that occur within a given calendar week are due no later than seven (7) days after the close of the week. Payment by Advertiser is not contingent upon receiving Company's aggregated income report/invoice, and Advertiser is solely responsible for the timely remittance of its monthly Payment Obligation, regardless of whether Advertiser has or has not received an invoice from Company. In the event Advertiser fails to pay within seven (7) days after payment is due, Advertiser shall incur a 10% late fee plus shall bear interest at the rate of 1.5% per month or the maximum interest rate permitted under applicable law, whichever is less. Advertiser agrees that if Advertiser does not pay within seven (7) days after payment is due Company may seek to satisfy Advertiser's Payment Obligation and to collect such payment from Advertiser.
- 7.2. Unless Advertiser objects to any Payment Obligation within three (3) business days of the end of that given billing cycle, the Payment Obligation shall be final and binding. Advertiser may only dispute a Payment Obligation if it has a reasonable basis for such dispute, which it can prove via written documentation. To the extent Advertiser intends to dispute a Payment Obligation, Advertiser shall provide a written report to Company, within three (3) business days of the end of that billing cycle, identifying, in detail, the discrepancies, between the Payment Obligation and Advertiser's evidence. Company may consider such report, but shall have final authority in determining the correct amount.
- 7.3. Notwithstanding the foregoing, once the three (3) business days period to dispute a payment obligation has expired, Advertiser may not withhold payment or any other amount due to Company or Publisher by reason of fraud or other alleged

wrongdoing, traffic quality, late payments, credit card refusals, expirations, chargebacks and/or any and all other disputes in connection with User Actions. In no event shall Company be liable for any lost profits, lost revenues or for any indirect, incidental, consequential, special or exemplary damages arising out of or related to any credit card refunds, penalties, fees, chargeback costs and/or the like.

- 7.4 Payment Records. Advertiser shall insert a tracking pixel on the confirmation page for each Ad to be for calculation purposes. Advertiser will provide Company with a link to the confirmation page where Company can view the pixel for approval prior to initiating the advertising campaign. Payment will be made based on Company's calculations based on the tracking pixel or Advertiser's count, whichever is greater. All such records provided by Advertiser shall be the sole property of Advertiser. In the event that the tracking methods employed malfunction or the Advertiser's website is inoperable, for the period in question, Company will determine invoicing in its sole discretion.
- 7.5 To the extent that payments are based on User Action (as referenced in Section 2.3), Company may, in its sole discretion, transfer User Action data that provides the basis for an invoice to Advertiser.
- 7.6 Unless otherwise provided in the IO or approved in writing by Advertiser, Company and Publishers will not incentivize or offer points, rewards, cash or prizes for any User Action (hereinafter, "Incentivized Traffic"). Advertiser acknowledges and agrees that Incentivized Traffic is a high-risk endeavor, and Incentivized Traffic tends to result in poor traffic quality. If Advertiser engages in Incentivized Traffic, Advertiser does so at Advertiser's own risk. In no event shall Company be liable for any loss, claim, damages or costs that may arise in connection with Incentivized Traffic.
- 7.7 Non-viable leads shall be deducted from the overall bill. Company shall determine in its sole discretion what constitutes a non-viable lead.
8. **Proprietary Rights.** Advertiser agrees that it does not have, nor will it claim, any right, title or interest in the Service, the Company Site or any underlying technology, software, applications, data, methods of doing business or any elements thereof, or any content provided on the Company Site (including the Ads). Advertiser will not attempt in any way to alter, modify, eliminate, conceal, or otherwise render inoperable or ineffective the Company Site tags, source codes, links, pixels, modules or other data provided by or obtained from Company that allows Company to measure ad performance and provide its Service. In addition, Advertiser acknowledges that all information, data and reports received from Company as part of the Service are proprietary to and owned by Company. If instructed to do so by Company, Advertiser will immediately discontinue the use of any such reports or data, and any other material owned by Company or the third party Advertisers.

9. **Privacy.** Advertiser agrees to comply with all applicable privacy laws. Advertiser further agrees to post conspicuously on each of its websites a Privacy Policy, linked, at a minimum, from the website's home page, that: (a) discloses its privacy practices, including its use of a third party for its ad serving activities; (b) identifies the collection and use of information gathered in connection with both ad serving activities and delivery of its content; and (c) provides the user with instructions as to opting-out from such collection. Company shall have no liability, to any third party or to Advertiser, in the event that Advertiser does not comply with any of these Terms, including, but not limited to, the provisions in this Section.

10. **Limitation of Liability and Disclaimer of Warranty.** Except as expressly set forth in these Terms and IO, Company makes no warranties and expressly disclaims all warranties, express or implied, as to the subject matter contained in these Terms, including implied warranties of merchantability and fitness for a particular purpose. Company shall not be liable for any Ad, Campaign or email, including but not limited to the content thereof, any unavailability or inoperability of the Internet, unavailability or consequences of any Ad or Campaign, the Company Site, or Services, or any technical malfunction, computer error, corruption or loss of information related to or arising out of the Services, the Company Site or any Ad or Campaign. COMPANY, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, CONTRACTORS AND SUPPLIERS PROVIDE THE COMPANY SITE, SYSTEMS, NETWORK, AND SERVICE "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. COMPANY, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, CONTRACTORS AND SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to Advertiser. This warranty gives Advertiser specific legal rights and you may also have other legal rights that vary from state to state.

IN ADDITION, COMPANY SPECIFICALLY DISCLAIMS ALL WARRANTIES THAT THE COMPANY SITE OR THE SERVICE WILL MEET ADVERTISER'S REQUIREMENTS, DISCLAIMS ALL WARRANTIES THAT THE COMPANY SITE OR SERVICE WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UPDATED, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR, DISCLAIMS ALL WARRANTIES THAT ANY FILES AVAILABLE FOR DOWNLOAD FROM THE INTERNET WILL BE FREE OF VIRUSES, WORMS, TROJAN HORSES OR OTHER CODE THAT MAY MANIFEST CONTAMINATING OR DESTRUCTIVE PROPERTIES (COMPANY DOES NOT ASSUME ANY RESPONSIBILITY OR RISK FOR ADVERTISER'S OR CUSTOMERS' USE OF THE INTERNET), DISCLAIMS ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, AND DISCLAIMS ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF COMPANY. COMPANY MAKES NO COMMITMENT TO UPDATE THE COMPANY SITE. COMPANY MAKES NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR

OBTAINED THROUGH THE COMPANY SITE OR ANY TRANSACTION ENTERED INTO THROUGH THE COMPANY SITE, AND IS NOT RESPONSIBLE FOR ANY USE OF CONFIDENTIAL OR PRIVATE INFORMATION BY THIRD PARTIES. ADVERTISER AGREES THAT IT IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED OR ACCESSED THROUGH THE USE OF THE COMPANY SITE OR SERVICE.

COMPANY MAKES NO REPRESENTATIONS THAT THE COMPANY SITE OR ANY OF ITS SERVICES OR MATERIALS ARE APPROPRIATE OR AVAILABLE FOR USE IN ALL LOCATIONS. NO USERS MAY ACCESS THE COMPANY SITE OR USE THE COMPANY SERVICE FROM TERRITORIES WHERE THE CONTENT OR THE BUSINESS OF THE COMPANY SITE MAY BE ILLEGAL.

IN NO EVENT SHALL COMPANY, ITS SUBSIDIARIES THEIR PAST, PRESENT AND FUTURE DIRECT AND INDIRECT SUBSIDIARIES, AFFILIATES, PARENT ENTITIES, JOINT VENTURES, EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, PRINCIPALS, AGENTS, ATTORNEYS, REPRESENTATIVES, PREDECESSORS, SUCCESSORS AND/OR ASSIGNS, AND EACH OF THEIR RESPECTIVE PAST AND PRESENT SUBSIDIARIES, AFFILIATES, PARENT ENTITIES, JOINT VENTURES, OFFICERS, DIRECTORS, SHAREHOLDERS, PRINCIPALS, AGENTS, REPRESENTATIVES, PREDECESSORS, SUCCESSORS AND/OR ASSIGNS BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES RESULTING FROM ANY CLAIM ARISING OUT OF, OR RELATED TO, THESE TERMS OR IO AND/OR USE OF THE COMPANY SITE INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE.

COMPANY, ITS SUBSIDIARIES THEIR PAST, PRESENT AND FUTURE DIRECT AND INDIRECT SUBSIDIARIES, AFFILIATES, PARENT ENTITIES, JOINT VENTURES, EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, PRINCIPALS, AGENTS, ATTORNEYS, REPRESENTATIVES, PREDECESSORS, SUCCESSORS AND/OR ASSIGNS, AND EACH OF THEIR RESPECTIVE PAST AND PRESENT SUBSIDIARIES, AFFILIATES, PARENT ENTITIES, JOINT VENTURES, OFFICERS, DIRECTORS, SHAREHOLDERS, PRINCIPALS, AGENTS, REPRESENTATIVES, PREDECESSORS, SUCCESSORS AND/OR ASSIGNS SOLE LIABILITY UNDER THE IO AND FOR ANY CLAIMS ARISING FROM THE IO (INCLUDING CONTRACT, TORT, AND NEGLIGENCE) SHALL IN NO EVENT EXCEED THE TOTAL FEES PAID TO COMPANY IN THE THIRTY (30) DAYS PROCEEDING THE DATE SUCH CLAIM OR CAUSE OF ACTION FIRST AROSE NOT TO EXCEED \$10,000. THE LIMITATION OF LIABILITY UNDER THIS SECTION WILL BE APPLIED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

ANY CLAIM OR CAUSE OF ACTION ARISING UNDER OR OTHERWISE RELATING TO THE IO, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, MUST BE COMMENCED WITHIN SIX MONTHS FROM THE DATE SUCH CLAIM OR CAUSE OF ACTION FIRST AROSE OR ALL CLAIMS WILL BE CONSIDERED UNTIMELY ASSERTED AND WAIVED.

11. **Non-Solicitation with Publishers.** Advertiser will not knowingly participate in any performance-based advertising relationship with any Publisher using Company's service, unless a previously existing business relationship between Advertiser and Publisher can be demonstrated to the reasonable satisfaction of Company. In this connection, both Parties agree and acknowledge that if Advertiser violates its obligations hereunder, Company will be entitled to damages in the amount of twenty-five percent (25%) of the gross revenues resulting from sales conducted by Advertiser through the advertising or marketing efforts of Publisher during the parties' business relationship.
12. **Covenant Not to Compete.** Advertiser agrees that during the term of its business relationship with the Company and for a period of twenty-four (24) months immediately thereafter (hereafter, "Non-Competition Period"), Advertiser shall not anywhere where the Company does business, the geographic scope of which is below, directly or indirectly engage in any activity which is competitive with the Company on Advertiser's own behalf or on behalf of any competitor of the Company; directly or indirectly induce, entice, or otherwise attempt to influence any employee, consultant, agent, or independent contractor of the Company to terminate his or her employment with the Company, or authorize or assist in the taking of any such action by any third party (for purposes of this paragraph the terms "employee", "consultant", "agent", and "independent contractor" shall include any persons with such status at any time during the six months preceding any prohibited action in question); or be employed by, consult with, provide advisory services to, or have any direct or indirect financial and/or ownership interest in any entity, enterprise, or business venture that engages in any activity which is in competition with the business of the Company. This covenant is applicable to leaving employment with the Company and working with any of its existing or past clients. Such actions are prohibited by this Contract.

Geographic Scope of Business. The Company markets its business, products, and services, competes for customers and clients, and otherwise conducts business in every state in the United States. This obligation will also cover all states and/or jurisdictions that the Company expands to during Advertiser's business relationship with Company.

Business of the Company. The Company is in the business of and otherwise competes in the business of online marketing, reviews and lead generation. The business of the Company shall include any business or industry not otherwise specified herein in which the Company endeavors, expands, or engages in whether by merger, acquisition, partnership, joint venture, or otherwise during the existence of the Parties business relationship or within six months thereafter.

Tolling of Non-Competition Period. The Non-Competition Period shall be extended by a period of time equal to the greater of: (a) the period of time during which Advertiser was in violation of these Terms; (b) the period of time required for the Company to enforce these Terms; or (c) the period of time necessary to provide the Company with a consecutive twenty-four (24) month period during which Advertiser has complied, without interruption, with these Terms.

13. **Non-Diversion of Business Opportunities; Non-Disparagement.** Advertiser agrees that during the Non-Competition Period, Advertiser shall not directly or indirectly seek to divert any persons, businesses, or entities from continuing to do business with the Company or entering into business with the Company. Advertiser further agrees, subject to applicable state and federal laws, not to disparage the Company or any of its directors, officers, officials, employees, agents, consultants, or contractors. This paragraph shall in no way limit or prevent the Company from pursuing any cause of action, right, or remedy provided by law for any act committed by Advertiser either during or after the Non-Competition Period.
14. **Phone Call Recording.** Advertiser expressly consents to Company recording any and all phone calls between any representative of Advertiser and any representative of Company. Company may use the recorded phone calls for training purposes or any other purposes Company deems necessary at its sole discretion.
15. **Telemarketing Compliance.** Advertiser covenants and agrees, in pursuing leads and contacts provided by the Company, to comply with all applicable telemarketing laws, regulations and rules, including without limitation the Telephone Consumer Protection Act (47 USC § 227), the Telemarketing & Consumer Fraud and Abuse Protection Act (15 USC § 6101 et seq.) and the Telemarketing Sales Rules promulgated by the Federal Trade Commission. Advertiser shall indemnify, defend and hold the Company harmless from and against any and all losses, damages, fines, liabilities, penalties and claims brought against or assessed to the Company that arise from, relate to or concern Advertiser's failure to comply with such telemarketing laws, regulations and rules.
16. **Miscellaneous.**
 - 16.1. Relationship Between the Parties. These Terms do not create an agency, joint venture, partnership, fiduciary relationship, implied or express exclusivity to each other or any similar relationship between the parties that restricts each party from operating its normal business or working with similar companies, competitors or any and all third parties, regardless of the affect it will have on each party. Neither party has the right or authority to act for, or on behalf of, the other party.
 - 16.2. Third Parties. These Terms are not for the benefit of any third party.
 - 16.3. Notices. Without precluding any other sufficient form of notice, all notices, demands, or other communications under these Terms shall be deemed given if sent by email to the email addresses specified of the parties as set out in the IO

and directed to the attention of the individuals signing the IO on behalf of the parties or to another address or individual specified by the party. Emails shall be deemed delivered five (5) hours after such email is sent during business hours.

- 16.4. Amendment and Modifications. No supplement, modifications, or amendment of these Terms by Advertiser shall be binding unless executed in writing by both parties. The terms and conditions of the IO shall prevail exclusively over any written instrument submitted by Advertiser even if signed by Company unless that writing expressly amends the IO and disclaims any terms therein.
- 16.5. Waiver. Neither Party's failure to insist on strict performance of any of these Terms shall be deemed a waiver of any of its rights or remedies, nor shall it relieve the other Party from performing any subsequent obligation strictly in accordance with these Terms. No waiver shall be limited to Terms specifically referred to herein and shall not be deemed a waiver of any other provision or subsequent breach. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 16.6. Assignment. These Terms shall inure to the benefit of, and be binding upon, any successor to all or substantially all of the business and assets of either Party, whether by merger, sale of assets, or other agreements or operation of law. Advertiser shall not assign any right or interest under these Terms or the IO, nor delegate any work or obligation to be performed under this Agreement, without the Company's prior written consent. Any attempted assignment or delegation in contravention of this provision shall be void and ineffective and shall be deemed to be a material breach hereof.
- 16.7. Choice of Law and Jurisdiction. These Terms and the IO shall be governed by, and to be construed in accordance with, the laws of the State of Utah without regard to that state's conflict of laws provisions. Both parties expressly consent to the exclusive personal jurisdiction and venue for any claim relating to or arising out of these Terms or the IO in the state and federal courts for Salt Lake City, Utah.
- 16.8. Specific Enforcement and Attorneys' Fees. Advertiser acknowledges that Company will be irreparably injured if any of these Terms are not specifically enforced. If Advertiser commits, or in the belief of Company, threatens to commit a breach of any of these Terms, Company and each of its subsidiaries shall have the right and remedy, in addition to any other remedy that may be available at law or in equity, to have these Terms specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause irreparable injury to Company and its subsidiaries, and that money damages will not provide an adequate remedy therefor. Such injunction shall be available without the posting of any bond or other security, and you hereby consent to the issuance of such injunction. If these

Terms are breached by Advertiser, Company will be entitled to recover its legal fees and costs incurred in the enforcement of these Terms.

- 16.9. Headings and Inclusiveness of Terms and Pronouns. Headings are for the convenience of reference only and do not alter the rights and obligations of the parties. Wherever from the context it appears appropriate, each Term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, feminine, or neuter shall include the masculine, feminine and neuter.
- 16.10. Severability. If any of these Terms are held invalid, such provision shall be restated to reflect, as nearly as possible, the original intention of the parties in accordance with applicable law, and the remainder of these Terms shall remain in force.
- 16.11. Integration. These Terms together with the IO and any attachments thereto, contain the entire understanding of the agreement between the parties and supersedes all prior agreements and understandings between them, oral or written, relating to the subject matter hereof.
- 16.12. Advice of Counsel. The parties each acknowledge and agree that they have reviewed these Terms, and every part thereof, that they understand same, that they have had the opportunity to review these Terms and to consult with their independent counsel as to the Terms, and that the terms and conditions hereof adequately and correctly reflect their respective understandings of the subject matter hereof.
- 16.13. Force Majeure. Neither Party shall be liable to the other for any delay or failure due to: acts of God, war, transportation difficulties, labor strikes, natural disasters, riots, telecommunications or information services infrastructure, hacking, spam, any failure of a computer, server, or software, or acts or omissions of vendors or suppliers beyond the control of the Parties.
- 16.14. Construction. These Terms have been mutually drafted and no presumption relating to ambiguities in favor of one interpretation over another due to the identity of the drafting Party shall arise.
- 16.15. Counterparts. These Terms and the IO shall become effective upon the execution of the IO by Advertiser.