

# Master Service Agreement

4/16/19

## 1. Services.

a. Projects. AIS Media provides to Client the services (the "Services") set forth in the attached Statement of Work ("SOW") and any future Services to be provided by AIS Media shall incorporate and be subject to these Terms. Each SOW shall state the deliverables (the "Deliverables") to be developed and delivered by AIS Media, the applicable payment terms, and any additional terms and conditions. In the event of a conflict between the provisions of these Terms and the provisions in the SOW, the provisions of the SOW shall prevail, but only with respect to that specific SOW.

b. Change Orders. Any changes made to the Services after execution of these Terms or the applicable SOW must be made in a "Change Order," which will be effective upon execution by both parties and will be incorporated into these Terms.

## 2. Payment Terms.

a. Fees. All fees ("Fees") set forth in the applicable SOW. Most Services require a non-refundable down payment by Client, which must be paid upon execution of these Terms or the applicable SOW. All remaining Fees will be paid at our standard rate of \$175 per hour, or as set forth in Section 5 or the applicable SOW.

b. Delinquent Payments. Client shall be responsible for all costs relating to or arising from the collection of any delinquent payments, including but not limited to: any and all collection fees, collection agency fees, attorneys' fees, court costs and expenses.

c. Taxes. Client shall pay all sales and other taxes, however designated or levied, based on the Fees.

## 3. Confidentiality.

Each party acknowledges that it will have access to certain confidential information of the other party concerning the other party's business, ideas, know-how, plans, employees, and other information held in confidence by the other party ("Confidential Information"). Confidential Information includes all information in tangible or intangible form that is marked or designated as confidential. Each party agrees that it will not use in any way, for its own account or the account of any third party, except as necessary to meet its obligations with respect to the Services, nor disclose to any third party any of the other party's Confidential Information. Each party will take reasonable precautions to protect the confidentiality of such information, at least as stringently as it takes to protect its own Confidential Information. Information will not be deemed Confidential Information hereunder if such information: (a) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (b) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of these Terms by the receiving party; or (d) is independently developed by the receiving party. The receiving party may disclose Confidential Information pursuant to the requirement of a governmental agency or by operation of law.

## 4. Ownership.

a. Deliverables. Except as otherwise set forth in the SOW, Client is granted a limited, non-exclusive license to utilize the Services and Deliverables during the term in the applicable SOW. For Deliverables identified in the SOW as acquired by

customer, AIS Media hereby assigns all copyrights in the Deliverables (excluding all AIS Media Property as defined below) to Client.

b. AIS Media Property. Notwithstanding subsection (a) above, AIS Media shall, however, retain sole and exclusive ownership of and all right, title, and interest in its own intellectual property, including but not limited to its underlying know-how, concepts, techniques, technology, software, preliminary designs, proposals, ideas, processes, models, templates, and tools (collectively, "AIS Media Property") used to provide the Services or to create the Deliverables or any other intellectual property or proprietary rights developed by AIS Media or any other third party either independent of the SOW or which is applicable to AIS Media's Services generally and not client-specific. Client shall acquire no right or interest in the AIS Media Property, except for a non-exclusive, non-transferable, royalty-free right to use the AIS Media Property solely in connection with the Services and Deliverables provided hereunder.

c. Client Property. Client shall retain sole and exclusive ownership of and all right, title, and interest in any content provided by Client to AIS Media and used to provide Services or to create the Deliverables set forth in the SOW, including any URLs identified for use in their websites, trademarks, copyrights, patents or other trade secrets ("Client Property"). Client grants to AIS Media a limited license to the Client Property solely for the purposes of providing Services or the creation of Deliverables as specified in the SOW. Client warrants that Client has the authority to grant such licenses.

## 5. Service Specific Terms.

The following terms will apply if Client requests any of the described Services from AIS Media.

a. Search Engine Optimization.

i. Billing and Service Terms. The Services have a minimum commitment period as defined in the SOW, which begins on the first day of the first full month of service. After the minimum commitment period ends, the Services auto-renew as defined in the SOW. AIS Media designates a start date for Client's SEO campaign. If Client's designated start date is on the first of the month, AIS Media requires full payment of Client's first month's service fees before any work can begin. For designated start dates after the first day of a month: (a) AIS Media requires a prorated payment of Client's partial month's service fees before any work can begin; (b) the monthly fee for the partial month does not count towards the fulfillment of the minimum commitment period. The first month's service charge occurs immediately following the receipt of the signed SOW. All payments are required to be made using a credit card and are non-refundable. The credit card charge is processed on the first day of each month for service to be delivered within that month. If the credit card charge is declined for any reason, the Services will be suspended on the first day of the month until payment is received. AIS Media does not honor Client requests to pause monthly billing or service.

ii. Website Changes. Client agrees to provide a working content management system ("CMS") login to AIS Media. If the SOW states that AIS Media can assist Client with website changes that require a developer: (a) AIS Media can only assist with these changes if Client website is hosted on a cloud-based CMS or Linux web server running an open source CMS; (b) AIS Media cannot assist with these changes if your website contains e-commerce functionality, accepts payments online, runs on a Microsoft web server or is built in ASP, JSP, Ruby, Perl, Python, ColdFusion, or any other server-side scripting language other than PHP. Login(s) must be provided to AIS Media within five business days of authorization of the SOW. By providing a login, Client authorizes AIS Media to

make changes to the website. If Client does not provide a login or if AIS Media cannot assist Client with changes for any reason, Client is responsible for completing website changes at its expense.

iii. Service Termination. Monthly service termination requests must be provided to AIS Media in writing via email [billing@aismedia.com](mailto:billing@aismedia.com). For termination requests received during the minimum commitment period: (a) Client is responsible for all fees due to AIS Media through the end of the minimum commitment period; (b) requests received by the first day of the last month of the minimum commitment period, service delivery will be terminated on the last day of the last month of the minimum commitment period; (c) requests received after the first day of the last month of the minimum commitment period, service delivery will be terminated on the last day of the following month; and (d) any outstanding contract fee balance will be processed by the end of the next business day. For termination requests received after the minimum commitment period has ended: (i) requests received by the first day of the current month will be effective on the last day of the current month; and (ii) requests received after the first day of the current month, the outstanding contract fee balance will be processed on the next business day and service delivery will be terminated on the last day of the following month. No fees will be credited or refunded.

b. Pay-Per-Click (PPC) Marketing.

i. Third-Party Billing and Service Terms. For Google AdWords, Bing Ads, Facebook Ads, Twitter Ads, and LinkedIn ("Ad Platform(s)"): (a) new campaigns are established in new accounts on Client's behalf; (b) credit card is used for the initiation and ongoing billing; (c) monthly media spend is charged directly to the Client credit card; (d) Client agrees to Ad Platform billing and service terms; (e) Client acknowledges that Client has entered into legally binding agreements with Ad Platforms; (f) Client voluntarily releases AIS Media from any legal liability between Client and Ad Platforms. Ad Platform billing information: Google

(<http://support.google.com/adwords/answer/6311>), Microsoft

(<http://help.bingads.microsoft.com/apex/index/3/en-us/52026>), Facebook

(<https://www.facebook.com/business/help/364871547019868>), Twitter (<https://business.twitter.com/en/help/account-setup/billing-basics.html>) and LinkedIn

(<https://www.linkedin.com/help/linkedin/answer/12411/billing-frequency-for-self-service-advertising?lang=en>). Ad Platform service terms: Google Inc. Advertising Program Terms

(<https://billing.google.com/payments/termsandconditionsfinder>), Microsoft Bing Ads Agreement

(<https://advertise.bingads.microsoft.com/en-us/cl/33562/microsoft-bing-ads-agreement>), Facebook

(<https://www.facebook.com/policies/ads/>), Twitter

(<https://ads.twitter.com/terms/us>), and LinkedIn

(<https://www.linkedin.com/legal/pop/pop-sas-terms>).

ii. Billing and Service Terms. To begin work on new campaigns, AIS Media requires the one-time setup payment. All one-time setup payments are non-refundable. The Services have a minimum commitment period as defined in the SOW, which begins on the first day of the first full month of service. After the minimum commitment period ends, the Services auto-renew as defined in the SOW. The monthly media budget documented in the applicable SOW is set as Client's monthly media budget. The monthly management fee as outlined in the SOW, and cannot be reduced during the minimum commitment period. AIS Media designates a start date for the launch of Client's new campaign or the takeover of management of

Client's existing campaign. If Client's designated start date is on the first of the month, AIS Media requires full payment of Client's first month's service fees before launching Client's new campaign or the takeover of management of Client's existing campaign. For designated start dates after the first day of a month: (a) AIS Media requires a prorated payment of Client's partial month's service fees before launching Client's new campaign or taking over management of Client's existing campaign; (b) AIS Media prorates Client's monthly media budget for the initial partial month; (c) the monthly management fee for the partial month does not count towards the fulfillment of the minimum commitment period. All payments are required to be made using a credit card and are non-refundable. The credit card charge is processed on the first day of each month for service to be delivered within that month. If the credit card charge is declined for any reason, the Services will be suspended on the first day of the month until payment is received.

iii. Monthly Media Budget Modifications. Monthly media budget modification requests must be provided to AIS Media in writing via email [billing@aismedia.com](mailto:billing@aismedia.com). For requests to increase the monthly media budget, on the next business day following the receipt of the request: (a) the new monthly media budget is set; (b) the prorated media budget is applied to the current month; (c) the new management fee is calculated; (d) the prorated management fee for the current month is processed; (e) the monthly management fee is updated to the new amount for processing starting on the first day of the next month. Requests for a decrease in media budget are processed on the last day of the month following the receipt of the request. The new monthly media budget is set on the first day of the following month. If the request to decrease the media budget is received within the minimum commitment period, the monthly management fee remains unchanged until the minimum commitment period has ended. The new monthly management fee is calculated on the last day of the last month of the minimum commitment period and is processed on the first day of the following month. If the request to decrease the media budget is received after the minimum commitment period has ended, the new monthly management fee is calculated on the last day of the month following the receipt of the request. The new management fee is processed on the first day of the following month.

iv. Campaign Pause Requests. Any Client requests to pause an Ad Platform campaign must be provided to AIS Media in writing via email [billing@aismedia.com](mailto:billing@aismedia.com). These requests are processed on the next business day following the receipt of the written pause campaign request. AIS Media pauses only Client's actual media spend with Ad Platforms. Client's monthly management fee paid to AIS Media is not paused and continues to be billed as set forth in the applicable SOW. AIS Media does not honor Client requests to pause monthly billing of the monthly management fee.

v. Account Access. Full access to Ad Platform accounts established pursuant to these Terms is restricted solely to AIS Media. If Client requests access to the account(s), read-only access may be provided if available from Ad Platform(s).

vi. Service Termination. Monthly service termination requests must be provided to AIS Media in writing via email [billing@aismedia.com](mailto:billing@aismedia.com). For termination requests received during the minimum commitment period: (a) Client is responsible for all fees due to AIS Media through the end of the minimum commitment period; (b) requests received by the first day of the last month of the minimum commitment period, service delivery will be terminated on the last day of the last month of the minimum commitment period; (c) requests received after the first day of the last month of the minimum

commitment period, service delivery will be terminated on the last day of the following month; (d) any outstanding contract fee balance will be processed by the end of the next business day; (e) AIS Media honors Client's request to immediately pause the Ad Platform accounts and the associated monthly media spend. For termination requests received after the minimum commitment period has ended: (i) requests received by the first day of the current month will be effective on the last day of the current month; (ii) requests received after the first day of the current month, the outstanding contract fee balance will be processed on the next business day and service delivery will be terminated on the last day of the following month; and (iii) AIS Media honors Client's request to immediately pause the Ad Platform accounts and the associated monthly media spend. No fees will be credited or refunded. Once Client is current with all AIS Media billing, AIS Media transfers account ownership of Ad Platform account to Client.

c. **WordPress Responsive Website Projects.**

i. **Billing Terms.** A down payment of one-fifth (1/5) of the project investment is required upon execution of these Terms or the applicable SOW relating to web design and development. Four (4) additional payments of one-fifth (1/5) of the project investment will be invoiced monthly beginning one (1) month following the execution of these Terms or the applicable SOW relating to web design and development. All payments are required to be made using a credit card and are non-refundable.

ii. **Changes/Revisions.** A round of changes/revisions is considered a complete list of numbered changes provided by Client. Once AIS Media receives a round of changes, AIS Media confirms that this list is complete and approved as a single round. Any changes after the provided round of changes has been executed are quoted as a Change Order to this project. In Client's review process, Client is required to consolidate all of its changes into a single round per phase to avoid additional project costs. AIS Media provides a single round of changes on the following phases of the project: Site Map and Full Site Development. AIS Media provides content for the project as is. Client is responsible to edit and submit final approved content.

iii. **Warranty.** AIS Media provides a 30-day warranty on all programming completed. The warranty covers bug fixes from the date of launch through a 30-day period. Bug fixes within the warranty timeframe are completed at no cost. AIS Media does not provide any warranty for bug fixes that are related to the hosting environment; Client pays AIS Media's standard hourly rate for the investigation of issues and bug fixes related to the hosting environment; if AIS Media does not deploy the website on the Client-selected hosting provider, no warranty is provided. After the warranty period is completed, all work is considered new work and is charged at AIS Media's standard hourly rate.

iv. **Search Engine Optimization Disclaimer.** Client agrees that nothing in these Terms shall be construed to imply that AIS Media is providing search engine optimization services unless expressly agreed to in a separate SOW.

**6. Phone Call and Form Submission Tracking.**

AIS Media may choose to provide phone call and form submission tracking technologies that integrate into Client website(s) and/or landing page(s). These technologies may capture, track, record, and store online form submission data and phone calls generated from Client website visitors. Client acknowledges and allows AIS Media to listen to each phone call recording and read the text of each form submission to identify sales leads.

**7. Warranties; Disclaimer.**

a. **Client's Warranties.** Client warrants that: (i) it has full power and authority to enter into these Terms; (ii) these Terms have been duly authorized, executed, and delivered by it and constitute a valid binding contract; (iii) it will comply with all third-party license terms; and (iv) any content (textual and non-textual) provided by Client to AIS Media is actually owned by Client or Client has permission to use such content from the rightful owner, and such content including any trademarks, copyrights, or other intellectual property does not violate any third party's rights. Client is solely responsible for legal clearance relating to any marketing practice or content displayed, developed or executed on behalf of Client by AIS Media, and obtaining all rights to all content unless such content is developed entirely by AIS Media. Client is solely responsible for reviewing and approving all content that will appear on Client's website, brochures, or any other materials and is solely responsible for the accuracy of such content.

b. **AIS Media Warranties.** AIS Media warrants that: (i) it has full power and authority to enter into these Terms; and (ii) these Terms have been duly authorized, executed, and delivered by it and constitute a valid binding contract. THE SERVICES AND DELIVERABLES ARE PROVIDED "AS IS." EXCEPT AS SET FORTH IN THIS SECTION, AIS MEDIA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TITLE, AND NON-INFRINGEMENT, OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. AIS MEDIA DOES NOT WARRANT THAT THE DELIVERABLES WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

c. **Links to Other Websites.** Client's website(s) or landing page(s) may contain links to, or may be accessible from, links within related or unrelated websites and resources. AIS Media shall not be liable for any loss, injury, claim, liability, or damages of any kind arising out of or in connection with such links.

**8. Limitation of Liability.**

In no event shall AIS Media be liable to Client for any special, consequential, incidental, punitive, or indirect damages of any kind whatsoever, including without limitation, lost profits, or lost savings, even if AIS Media has been advised of the possibility of such damages. In no event shall AIS Media's liability to Client exceed the amounts paid by Client to AIS Media under the applicable SOW in the twelve (12) month period immediately preceding the occurrence of the claim.

**9. Indemnification.**

Client hereby agrees to indemnify, defend, and hold AIS Media, and its officers, directors, agents, vendors, licensors, and subcontractors (collectively, the "Indemnified Parties") harmless from and against any and all third-party claims, liability, and costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Indemnified Parties in connection with any claim arising out of: (a) any breach by Client of these Terms; (b) inaccurate, incomplete, or improper assertions with respect to Client products and services or the products and services of Client's competitors which may be contained in any marketing communication or appear on Client's website, and was approved by Client; (c) any advertising element furnished by Client that allegedly violates a personal or property right of anyone, including but not limited to claims for libel, slander, defamation, copyright or trademark infringement, invasion of privacy, misappropriation of ideas, piracy, and plagiarism; (d) representations made by Client; (e) any agreement between Client and a third party, including but not limited to Google, Inc. and Microsoft Online, Inc. or any other third party's license terms, including the use of any

material in violation of such terms; (f) any use of Client's website or services; (g) Client Property, content, information and services provided by Client; and (h) any and all actions, conduct or acts of omission by Client. Client shall cooperate as fully and as reasonably required in the defense of any claim. AIS Media reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by Client.

#### **10. Term, Termination.**

a. Term. These Terms shall commence upon the Effective Date and continue until terminated in accordance with this Section. Upon completion of all outstanding Services, either party may terminate these Terms upon thirty (30) days prior written notice to the other party, unless the applicable SOW provides for automatic renewal.

b. Termination for Breach. Either party may terminate these Terms upon written notice if the other party materially breaches these Terms and fails to cure the breach within thirty (30) days of receipt of notice of the breach. Additionally, AIS Media may terminate these Terms immediately if Client: (i) fails to pay Fees due; or (ii) fails to cooperate with AIS Media or hinders AIS Media's ability to perform the Services hereunder.

c. Effects of Termination. All Fees owed by Client to AIS Media shall be automatically due and payable upon termination or completion of these Terms.

d. Survival. Sections 3, 4, 8-10 and 12 shall survive termination or expiration of these Terms.

#### **11. Informal Dispute Resolution.**

At the written request of either party, the parties will attempt to resolve any dispute arising under or relating to this Agreement (a "Dispute") by each appointing a senior management representative who does not devote substantially all of his or her time to performance under this Agreement to resolve the Dispute. The representatives will furnish each other with all non-privileged information about the Dispute that the parties believe to be appropriate and germane. The representatives will negotiate in good faith in an effort to resolve the Dispute without the necessity of any formal proceeding. Unless failure to do so risks allowing a limitation period to pass, neither party will initiate formal proceedings relating to the Dispute until the earlier of: (a) the designated representatives conclude that resolution through continued negotiation does not appear likely, or (b) thirty (30) calendar days have passed since the initial request to negotiate the Dispute was made.

#### **12. Non-Solicitation.**

AIS Media employees may be at Client's site or otherwise in contact with Client for the purpose of providing Services. During the period beginning with the Effective Date and ending two (2) years after the completion of the Services provided by an AIS Media employee, neither Client nor any affiliate of Client shall offer employment to any employee of AIS Media who has provided Services to Client. Client acknowledges and agrees that the breach of this Section by Client would cause AIS Media irreparable injury. In the event of the breach or threatened breach of this section by Client, AIS Media shall have the right to seek specific performance, an injunction, or other equitable relief to prevent the unauthorized offer of employment or employment of an AIS Media employee in violation of this Section.

#### **13. Credit for Work.**

Client agrees that AIS Media may use Client's name in a reasonable manner for the purpose of references, presentations, and customer identification lists, links, brochures, manuals, and marketing.

#### **14. Miscellaneous.**

These Terms set forth the entire agreement and understanding between the parties with respect to the subject matter hereof,

and supersede all prior oral and written agreements and understandings. These Terms may not be amended except by an instrument in writing signed on behalf of each of the parties. No waiver of any of the provisions of these Terms will be deemed or will constitute a waiver of any other provision hereof (whether or not similar), nor will such waiver constitute a continuing waiver unless otherwise expressly provided. In the event that any one or more of the provisions contained in these Terms or in any other instrument referred to in these Terms are, for any reason, held to be invalid, illegal, or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality, or unenforceability will not affect any other provision of these Terms or any other such instrument. These Terms shall be governed in accordance with the laws of the State of Georgia, excluding all conflicts of laws principles. The parties hereby submit to the exclusive jurisdiction of the federal and state courts in Atlanta, Georgia. Nothing herein shall be construed to create a partnership or joint venture by or between Client and AIS Media. Nothing herein will be construed to place the parties in a relationship of partners, co-venturers, or agents, and neither party will have the power to obligate or bind the other in any manner whatsoever without the other party's prior written approval. Client may not assign any rights, obligations, or duties, in whole or in part, and/or any other interest hereunder, without the prior written consent of AIS Media, which consent can be withheld in AIS Media's discretion. AIS Media may assign its rights and obligations hereunder to any party or entity without Client's consent. All obligations and duties of Client shall be binding on all successors in interest and assigns. AIS Media may, in its reasonable discretion, engage one or more subcontractors in connection with the delivery of Services. These Terms may be executed, scanned, and e-mailed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Neither party shall be liable for any delay or failure in performance caused by fire, accident, casualty, failure of transportation or power, floods and other natural catastrophes, war or acts of war or of a public enemy, civil riots or disturbances, governmental law, order or regulation, or any other cause of like or different nature beyond such party's reasonable control.

***Thank you for choosing AIS Media for your digital marketing needs. We look forward to a mutually beneficial partnership.***