**SERVICES AGREEMENT**

This **SERVICES AGREEMENT** (THIS “Agreement”) is entered into as of the date set forth above (the “Effective Date”) by and between **CREDITOR NAME**, a **Creditor’s State** corporation with offices located at **Creditor’s Street Address, City, State, Zip Code** and the entity named above (“Customer”).

**AGREEMENT**

**1. AGREEMENT SCOPE.** This Agreement is a master agreement that provides for the provision by **Creditor Name** to Customer of Services, ordered by Customer hereunder, pursuant to Order Forms submitted by Customer and accepted by **Creditor Name**. Accordingly, in addition to any initial Services to be provided pursuant to any initial Order Form(s), the parties may subsequently execute additional Order Forms under which additional Services may be provided by **CREDITOR NAME** to Customer.

**2**. **ENTIRE AGREEMENT.** This Agreement, together with any Exhibits and Order Forms, attached hereto, or which are later executed by the parties and expressly reference this Agreement (all of which are hereby incorporated herein by this reference), along with any valid amendments hereto, completely and exclusively state the entire agreement of the parties regarding the subject matter herein, and supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. For the avoidance of doubt, any terms or conditions on any Customer purchase order or similar document are expressly excluded from this Agreement. This Agreement shall not be modified except by a subsequently dated, written amendment signed on behalf of **CREDITOR NAME** and Customer by their duly authorized representatives.

**CREDITOR NAME SERVICES TERMS AND CONDITIONS**

 These **CREDITOR NAME** Services Terms and Conditions, set forth the terms and conditions which, along with any additional terms included in an applicable Order Form, govern the Master Advertising Agency Services Agreement to which this Exhibit A is hereby incorporated and made a part thereof.

**1.** **DEFINITIONS**

The following capitalized terms shall have the meaning set forth below. Other defined terms shall have the meanings set forth where they are first underlined.

**1.1** “Business Day” means any weekday other than a day designated as a holiday under the **CREDITOR NAME** holiday schedule, as revised annually and from time to time.

**1.2** “Customer” means the entity named on the cover page to this agreement, and its affiliates. For purpose of this Agreement, “affiliates” means an entity that is controlled by or under common control with the entity named above. The entity named above agrees to be responsible to **CREDITOR NAME** for any costs or damages resulting from an act or omission by an affiliate that if attributable to Customer would constitute a breach of this Agreement.

**1.3** “DELIVERABLE” means any written reports, marketing strategy and implementation recommendations, ad text, images or other original work of authorship, content or materials delivered to Customer in connection with the performance of Services.

**1.4** “ORDER FORM” means a **CREDITOR NAME** order form, pursuant to which Customer may order Services from CREDITOR NAME.

**1.5** “Services” means the search engine marketing and related services to be provided by **CREDITOR NAME** to Customer, as described in one or more applicable Order Forms.

**2. SERVICES**

**2.1** “Provision of Services”. In consideration of the payment by Customer to **CREDITOR NAME** of the applicable fees, **CREDITOR NAME** will provide to Customer the Services indicated on each applicable Order Form.

**2.2** Subcontractors. **CREDITOR NAME** reserves the right to use subcontractors to perform Services on **CREDITOR NAME**’s behalf.

**2.3** Additional Services. In the event that in the future Customer desires to obtain from **CREDITOR NAME** additional Services, the parties may execute one or more additional Order Forms, setting forth the additional Services to be provided by **CREDITOR NAME** to Customer, along with the applicable additional fees to be paid by Customer to **Creditor Name**.

**2.4** Customer Obligations. Customer agrees to provide **CREDITOR NAME** with such cooperation, materials, information, access and support which **CREDITOR NAME** deems to be reasonably required to allow **CREDITOR NAME** to successfully provide the Services. Customer understands and agrees that **CREDITOR NAME’s** obligations hereunder are expressly conditioned upon Customer timely providing such cooperation, materials, information, access and support.

**2.5** Customer Policies. While on premises owned, controlled or hired by Customer, all **CREDITOR NAME** personnel shall conduct themselves in accordance with the standard health, safety and security policies of Customer

**3.** **OWNERSHIP OF DELIVERABLES**

In the course of performing Services, **CREDITOR NAME** may, at the request of Customer, create Deliverables. Customer shall own all right title and interest in and to all Deliverables created by **CREDITOR NAME** at the request of Customer, including all intellectual property rights therein and thereto. For all other Deliverables, **CREDITOR NAME** hereby grants to Customer a royalty-free, worldwide license, without the right to grant or authorize sublicenses, to use such Deliverables solely in connection with Customer’s use of the associated Services. Nothing in this Agreement shall be deemed to prohibit **CREDITOR NAME** from using for any purpose any general knowledge, skills, techniques or methods it learns in the course of performing Services.

**4. FEES, PAYMENT AND TAXES**

**4.1** Fees and Invoices**.** Fees for Services shall be set forth in the applicable Order Form. **CREDITOR NAME** will invoice Customer monthly, in arrears. Unless specifically stated otherwise in an applicable Order Form, the Customer shall reimburse **CREDITOR NAME** for reasonable travel, accommodation, communications, equipment and out-of-pocket expenses incurred in conjunction with the Services (“Expenses”). Invoices for Expenses will be sent in the month following the month in which they were incurred.

**4.2** Payment. Unless otherwise specified on an Order Form, all invoices will be paid in U.S dollars and are due within thirty (30) days of the date of the invoice, provided that invoices for media buys made by **CREDITOR NAME** on Customer’s behalf are due within fifteen (15) days of the date of the invoice. Payments will be made without right of set-off or chargeback. All monetary amounts are specified and shall be paid in the lawful currency of the United States of America. Customer shall pay all amounts due under this Agreement to **CREDITOR NAME** at the address set forth herein or such other location as **CREDITOR NAME** designates in writing. Any amount not paid when due may be subject to interest charges at the rate of one and one half percent (1.5%) per month or, the maximum rate permitted by law, whichever is less, determined and compounded on a daily basis from the date due until the date paid. In addition, if Customer fails to pay when due any invoice for a media buy made by **CREDITOR NAME** on Customer’s behalf, Customer agrees to pay a late payment penalty equal to five percent (5%) of the amount of any such invoice.

**4.3** Taxes. All amounts payable by Customer to **CREDITOR NAME** under this Agreement are exclusive of any tax, levy or similar governmental charge that may be assessed by any jurisdiction, whether based on gross revenue, the provision of Services, the execution or performance of this Agreement to otherwise, and including without limitation all sales, use, excise, import or export, value added, governmental permit fees, license fees, and customs; provided, however, that Customer shall have no liability for any net income, net worth or franchise taxes assessed on **Creditor Name** by the United States or any state thereof.

**5. TERM AND TERMINATION**

**5.1** Term. This Agreement shall commence on the Effective Date and shall, unless earlier terminated under Section 5.2 below, continue in force for a period of one (1) year. Thereafter, the term of this Agreement shall automatically renew for additional one (1) year periods unless either party gives written notice to the other of its Intension not to renew the Agreement at least thirty (30) days prior to the expiration of the then-current term. The initial term of this Agreement, plus any subsequent renewal term shall be the “Term” of this Agreement.

**5.2** Termination. Either party may, upon written notice to the other party, terminate this Agreement for any reason or no reason, by giving the other party a thirty (30) days written notice at any time during the term of this agreement.

**5.3** Survival. All payment obligations under Section 4, plus Sections 5.3, 6, 7, 8, 9 and 10 of this Exhibit A shall survive any termination or expiration of this Agreement.

**6. CONFIDENTIALITY**

**6.1** Confidential Information. Both parties acknowledge that, in the course of performing this Agreement, they may obtain information relating to products (such as goods, services, and software) of the other party, or relating to the parties themselves, which is of a confidential and proprietary nature (“Confidential Information”). Confidential Information includes all communications concerning CREDITOR NAME’s or Customer’s business and marketing strategies including but not limited to employee and customer lists, customer profiles, project plans, design documents, product strategies and pricing data, research, advertising plans, leads and sources of supply, development activities, design and coding, interfaces with **CREDITOR NAME** software, anything provided by **CREDITOR NAME** in connection with its warranty obligations under this Agreement, including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical plans and other information of the parties which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, printed, written, graphic or photographic or other tangible form (including information received, stored or transmitted electronically) even though specific designation as Confidential Information has not been made.

**6.2** Non-use and Non-disclosure. The parties shall at all times, both during the term of this Agreement and thereafter keep in trust and confidence all Confidential Information of the other party and shall not use such Confidential Information other than as necessary to carry out its duties under this Agreement, nor shall either party disclose any such Confidential Information to third parties without the other party’s prior written consent.

**6.3** Non-Applicability. The obligations of confidentiality shall not apply to information which (i) has entered the public domain except where such entry is the result of a party’s breach of this Agreement; (ii) prior to disclosure hereunder was already in the receiving party’s possession without restriction; (iii) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information; or (iv) was developed by the receiving party without use of the Confidential Information.

**6.4** Terms of this Agreement. Except as required by law or governmental regulation, neither party shall disclose, advertize, or publish the terms and conditions of this Agreement without the prior written consent of the other party, except that either party may disclose the terms of this Agreement to potential acquirers, accountants, attorneys and parent organizations pursuant to the terms of a no-disclosure or confidentiality agreement, or to potential investors.

**6.5** Disclosure Required by Law. Notwithstanding anything to the contrary herein, each party may comply with an order from a

Court or other governmental body of competent jurisdiction and disclose the other party’s Confidential Information in compliance with that order only if such party: (i) gives the other party prior notice to such disclosure if the time between that order and such disclosure reasonably permits or, if time does not permit, gives the other party notice of such disclosure promptly after complying with that order and (ii) fully cooperate with the other party, at the other party’s cost and expense, in seeking a protective order, confidential treatment, or taking other measures to oppose or limit such disclosure. Each party must not release any more of the other party’s Confidential Information than is reasonably necessary to comply with an applicable order.

**7. WARRANTY AND REMEDIES**

**7.1** Services, Warranty and Remedy. **CREDITOR NAME** warrants that during the Term it will perform the Services in a workmanlike manner consistent with generally accepted industry standards. In the event of a breach of the foregoing warranty, CREDITOR NAME’s sole obligation, and Customer’s exclusive remedy shall be for **CREDITOR NAME** to re-perform the applicable Services.

**7.2** Warranty disclaimer and Limitations. EXCEPT AS SET FORTH IN SECTION 7.1, THE SERVICES ARE PROVIDED”AS IS” WITHOUT WARRANTY OF ANY KIND, AND **CREDITOR NAME**MAKE NO WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY REGARDING OR RELATING TO THE DELIVERABLES, MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, **CREDITOR NAME**SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGMENT WITH RESPECT TO THE DELIVERABLES AND SERVICES PROVIDED BY **CREDITOR NAME**HEREUNDER, AND WITH RESPECT TO THE USE OF THE FOREGOING.

**8. INDEMNIFICATION**

Each party (“Indemnitor”) shall defend, or at its option settle, any claim, action, demand, suit or proceeding (each, a “Claim”) made or brought against the other party (“ Indemnitee”) by a third party alleging that any content provided by the Indemnitor to the Indemnitee, when used in accordance with this Agreement, infringes any third party copyright or trademark, and Indemnitor shall pay any settlement or indemnify Indemnitee against any damages finally awarded against Indemnitor by a court of competent jurisdiction as a result of any such Claim; provided that Indemnitee (a) promptly ceases use of the applicable content and gives Indemnitor written notice of the Claim; (b) gives Indemnitor sole control of the defense and settlement of the Claim; and (c) provides to Indemnitor all reasonable assistance, at Indemnitor’s expense. THIS SECTION 8 SETS FORTH THE PARTIES’ SOLE AND ENTIRE LIABILITY AND EXCLUSIVE REMEDIES FOR ANY INFRINGMENT OR MISAPPROPRIATION CLAIMS OF ANY KIND.

**9. LIMITATION OF LIABILITY**

**9.1** Disclaimer of certain Damages. IN NO EVENT SHALL CUSTOMER OR **CREDITOR NAME**BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF OR FAILURE TO PERFORM THIS AGREEMENT, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**9.2** Damages Cap. IN NO EVENT SHALL CREDITOR NAME’S AGGREGATE, CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNTS CUSTOMER WAS REQUIRED TO PAY **CREDITOR NAME**UNDER THIS AGREEMENT FOR THE SERVICES GIVING RISE TO SUCH LIABILITY IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

**9.3** Basis of Bargain. CUSTOMER AGREES THAT THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS ARE A MATERIAL BASIS OF THE BARGAIN SET FORTH HEREIN AND A REASONABLE ALLOCATION OF THE RISK BETWEEN THE PARTIES, AND WILL APPLY TO THE MAXIMUM EXTENT PERMOTTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

**10. Miscellaneous**

**10.1** Assignment. Customer may not assign this Agreement, in whole or in part, without the prior written consent of **CREDITOR** **NAME**. Any assignment in violation of this Section 10.1 shall be void ab initio and of no effect. Subject to the foregoing, this Agreement is binding upon, inures to the benefir of and in enforceable by the parties and their respective successors and assigns.

**10.2** Customer Identification. Customer consents to **CREDITOR NAME**’s identification of Customer as a user of the Services, as applicable, on its website, through a press release issued by **CREDITOR NAME** and in other promotion materials. Customer also agrees to cooperate with **CREDITOR NAME** in writing a case study exposing how the Services are being used and the benefits the Customer is deriving from this use.

**10.3** Fees. In any judicial proceeding between Customer and **CREDITOR NAME** arising out of or relating to this Agreement, the prevailing party shall be entitled to recover all reasonable expenses incurred as a result of the proceeding, including reasonable attorney’s fees.

**10.4** Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under this Agreement, other than monetary obligations, as a result of any cause or condition beyond such party’s reasonable control.

**10.5** Governing Law. This Agreement will be governed by the laws of the **Creditor’s State**, without regard to its conflict of laws principles. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All suits hereunder will be brought solely in Federal Court for the **Creditor’s District, State**, or if that court lacks subject matter jurisdiction, in any **Creditor’s State** Court located in **Creditor’s County**. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any such action or proceeding in any of such courts based upon any alleged lack of personal jurisdiction, improper venue, forum non convenience or any similar claim or defense. A breach by either party of Section 6 would cause irreparable harm for which the non-breaching party shall be entitled to seek injunctive relief. If any provision(s) hereof is held unenforceable, this Master Agreement will continue without said provision and be interpreted to reflect the original intent of the parties.

**10.6** Language. This agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding to the parties hereto. All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

**10.7** Notices. Any notice or other communication under this Agreement given by either party to the other will be deemed to be properly given if given in writing and delivered in person or facsimile, if acknowledged received by return facsimile or followed within one day by a delivered or mailed copy of such notice, or if mailed, properly addressed and stamped with the required postage, to the intended recipient at its address specified below the signatures on this Agreement. Either party may from time to time change its address for notices under this Section by giving the other party notice of the change in accordance with this Section 10.7.

**10.8** Non-solicitation. During the Agreement and for a period of twelve (12) months following its expiry or earlier, lawful termination, Customer shall not solicit nor approach in any way any of **Creditor Name**’s employees or contract staff (“Restricted Persons”) with a view to: (i) offering such Restricted Persons, employment, or (ii) soliciting services from them on their own account; or (iii) encouraging them to provide their services to a third party rather than **Creditor Name**; or (iv) offering to them the opportunity to perform services colourably similar to the Services. If Customer breaches its obligations set forth in this Section 10.8, Customer agrees to pay to **CREDITOR NAME** an amount equal to one third (1/3) of the applicable Restricted Person’s annual compensation (whether actual, or annualized) from **CREDITOR NAME** immediately prior to the date of such breach by Customer.

**10.9** Non-waiver. Any failure of either party to insist upon or enforce performance by the other party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be interpreted or construed as a waiver or relinquishment of such party’s right to assert or rely upon such provision, right or remedy in that or any other instance.