

# Web Ad Marketing AFFILIATE AGREEMENT

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2011, between Web Ad Marketing ("the Company") and \_\_\_\_\_ ("the Affiliate").

- 1. Affiliate:** Subject to the terms and conditions of this Agreement, the Company hereby engages the Affiliate as an independent contractor to perform the services set forth herein, and the Affiliate hereby accepts such engagement.
- 2. Duties, Term, and Compensation:** The Affiliate's duties, term of engagement, compensation and provisions for payment thereof shall be as set forth in the estimate previously provided to the Company by the Affiliate and which is attached as **Exhibit A**, which may be amended in writing from time to time, or supplemented with subsequent estimates for services to be rendered by the Affiliate and agreed to by the Company, and which collectively are hereby incorporated by reference.
- 3. Expenses:** During the term of this Agreement the Affiliate will cover their own expenses.
- 4. Confidentiality:** The Affiliate acknowledges that during the engagement [he or she] will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by the Company and/or used by the Company in connection with the operation of its business including, without limitation, the Company's business and product processes, methods, customer lists, accounts and procedures. The Affiliate agrees that [he or she] will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement with the Company. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the business of the Company, whether prepared by the Affiliate or otherwise coming into [his or her] possession, shall remain the exclusive property of the Company. The Affiliate shall not retain any copies of the foregoing without the Company's prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by the Company, the Affiliate shall immediately deliver to the Company all such files, records, documents, specifications, information, and other items in [his or her] possession or under [his or her] control. The Affiliate further agrees that [he or she] will not disclose [his or her] retention as an independent contractor or the terms of this Agreement to any person without the prior written consent of the Company and shall at all times preserve the confidential nature of [his or her] relationship to the Company and of the services hereunder.
- 5. Conflicts of Interest; Non-hire Provision.** The Affiliate represents that [he or she] is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Affiliate and any third party. Further, the Affiliate, in rendering [his or her] duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which [he or she] does not have a proprietary interest. During the term of this agreement, the Affiliate shall devote as much of [his or her] productive time, energy and abilities to the performance of [his or her] duties hereunder as is necessary to perform the required duties in a timely and productive manner. The Affiliate is expressly free to perform services for other parties while performing services for the Company. For a period of six months following any termination, the Affiliate shall not, directly or indirectly hire, solicit, or encourage to leave the Company's employment, any employee, consultant, or contractor of the Company or hire any such employee, consultant, or contractor who has left the Company's employment or contractual engagement within one year of such employment or engagement.
- 6. Right to Injunction.** The parties hereto acknowledge that the services to be rendered by the Affiliate under this Agreement and the rights and privileges granted to the Company under the Agreement are of a special, unique, unusual,

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and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any action at law, and the breach by the Affiliate of any of the provisions of this Agreement will cause the Company irreparable injury and damage. The Affiliate expressly agrees that the Company shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by the Affiliate. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that the Company may have for damages or otherwise. The various rights and remedies of the Company under this Agreement or otherwise shall be construed to be cumulative, and no one of the them shall be exclusive of any other or of any right or remedy allowed by law.

**7. Merger.** This Agreement shall not be terminated by the merger or consolidation of the Company into or with any other entity.

**8. Termination.** The Company may terminate this Agreement at any time by 10 working days' written notice to the Affiliate, if Affiliate is in violation of the terms set forth in this Agreement. In addition, if the Affiliate is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the Company, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the Company at any time may terminate the engagement of the Affiliate immediately and without prior written notice to the Affiliate. Should the Affiliate cease to engage in selling the services rendered pursuant to this Agreement or violate the terms of this Agreement in any way, no commissions or payments will be owed for charges occurring after the termination date of this Agreement.

**9. Independent Affiliate.** This Agreement shall not render the Affiliate an employee, partner, agent of, or joint venture with the Company for any purpose. The Affiliate is and will remain an independent contractor in [his or her] relationship to the Company. The Company shall not be responsible for withholding taxes with respect to the Affiliate's compensation hereunder. The Affiliate shall have no claim against the Company hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

**10. Insurance.** It is not necessary for the Affiliate to carry liability insurance at this time.

**11. Successors and Assigns.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

**12. Choice of Law.** The laws of the state of Massachusetts shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

**13. Arbitration.** Any controversies arising out of the terms of this Agreement or its interpretation shall be settled in Middlesex County in accordance with the rules of the American Arbitration Association, and the judgment upon award may be entered in any court having jurisdiction thereof.

**14. Headings.** Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

**15. Waiver.** Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

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**16. Assignment.** The Affiliate shall not assign any of [his or her] rights under this Agreement, or delegate the performance of any of [his or her] duties hereunder, without the prior written consent of the Company.

**17. Notices.** Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

If to the Affiliate :

If to the Company : Web Ad Marketing

78 Babicz Rd , Tewksbury MA 01876

Any party hereto may change its address for purposes of this paragraph by written

notice given in the manner provided above.

**18. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.

**19. Entire Understanding.** This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

**20. Unenforceability of Provisions.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

**21. Cancellation / Buyout Policy:** Web Ad Marketing requires notification at least 30 days in advance of the next payment due for the cancelation of any services rendered.

**22. Representation.** Affiliate agrees to accurately and honestly represent the Company and the services it provides. Affiliate agrees that any deliberant or blatant misrepresentation of the Company is grounds for immediate termination.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above. The parties hereto agree that facsimile signatures shall be as effective as if originals.

## SCHEDULE A

### DUTIES, TERM, AND COMPENSATION

**DUTIES:** The Affiliate will sell the services offered by the Company, pursuant to the instructions and training offered by the Company.

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[He or she] will report directly to Marc Mantel and to any other party designated

by [Marc Mantel] in connection with the performance of the duties under this

Agreement and shall fulfill any other duties reasonably requested by the

Company and agreed to by the Affiliate.

TERM: This engagement shall commence upon execution of this Agreement and

shall continue in full force unless or until terminated by either party.

## **COMPENSATION: White-label basis (SEO)**

As full compensation for the services rendered pursuant to this Agreement, the Affiliate shall pay the Company the standard amount minus 12% that the company charges for online marketing and development services and the Affiliate will charge and invoice its clients directly.

**Compensation for PPC campaigns managed by Web Ad Marketing.** All campaigns will be setup and tracked via the Google Adwords platform: The Affiliate shall pay Web Ad Marketing the full price of the chosen campaign and receive a 5% commission based on the total amount in the form of a check, which will be processed on the 15th of the month following the purchase.

**Marc Mantel** \_\_\_\_\_

Web Ad Marketing: \_\_\_\_\_, Affiliate: \_\_\_\_\_

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

## **Exhibit A**

The affiliate is solely responsible for any and all communication with their client.

The Affiliate is responsible for invoicing and collecting charges pending from their clients. Web Ad Marketing will not provide refunds to affiliates that do not receive payments from their clients.

The Affiliate shall be responsible for providing all customer support to their clients. Web Ad Marketing will assist the Affiliate in providing answers and solutions to client issues, but all communication with the client shall be executed by the Affiliate. For clients that require customized packages that do not adhere to the plans provided by Web Ad Marketing the Affiliate must consult with Web Ad Marketing in order to provide the client with a customized package. Web Ad Marketing is not responsible for honoring prices given to clients by affiliates without prior approval.