

SALES AND MARKETING OUTSOURCING AGREEMENT

This Sales and Marketing Outsourcing Agreement (this “Agreement”) is made effective 6/24/2021 (the “Effective Date”) between Antosh Marketing, a Pennsylvania company with a mailing address of PO Box 267, Horsham, PA 19044, (“Contractor”) and _____ with a mailing address of _____ (“Company”).

WHEREAS, Company desires to outsource specific sales and marketing functions to support its efforts to generate business; and

WHEREAS, Contractor is willing to provide Sales and Marketing Functions on the terms and conditions set forth in this Agreement as to be amended as needed and confirmed in writing.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Contractor agree as follows:

1. Generation of Referrals. Company hereby authorizes Contractor to market its Services to potential customers, partners, and other entities (“Referrals”). All Referrals solicited by Contractor are to be forwarded to Company for acceptance or rejection. Company reserves the right to solicit Referrals directly or through another entity, unless as set forth in Exhibit A and/or agreed to in writing. In every instance, Company has the sole and absolute right to determine, in its sole discretion, the acceptability of any Referrals, and the terms and conditions of any agreement with Referrals. Company has no obligation to bid for, quote prices to, negotiate with, or accept agreements from, any Referrals. Contractor agrees to disclose to Referrals that (a) Company is under no obligation to provide Services to any Referrals, and (b) Contractor has no authority to bind Company.

2. Payments.

- a. Company will pay Contractor as set forth in Exhibit A. Company shall pay Contractor within 30 days after the last day of the month or as outlined in Exhibit A. Company will not withhold any federal income taxes or pay any social security taxes, domestic or foreign, on account of any fees paid or payable to Contractor. CONTRACTOR IS RESPONSIBLE FOR THE PAYMENT OF ANY FEDERAL, STATE AND LOCAL INCOME TAX, SELF-EMPLOYMENT TAX, BUSINESS LICENSES, BUSINESS REGISTRATIONS, OR OTHER TAXES, LICENSES OR REGISTRATIONS ASSOCIATED WITH CONTRACTOR’S ACTIVITIES UNDER THIS AGREEMENT.

3. Company’s Duties. Company shall use commercially reasonable efforts to provide Contractor with assistance and information necessary for Contractor to carry out its activities under this Agreement. All materials supplied to Contractor shall be the property of Company, and shall be returned to it upon request.

4. Term and Termination. This Agreement shall remain in effect for one year, and may be renewed for consecutive one year periods (collectively, the “Term”), unless it is terminated as provided in this Section 4. Either party may immediately terminate this Agreement upon written notice to the other party. Upon termination of this Agreement, Contractor will discontinue any and all commercial activity relating to sales of the Services.

5. Confidentiality. In performing its obligations under this Agreement, each party may receive information (the “Receiving Party”) of a confidential and proprietary nature regarding the other, including information about such party’s intellectual property and its operations, research, marketing plans, strategies, and Company lists (collectively, “Confidential Information”). The Receiving Party shall hold the other party’s Confidential Information in strict confidence, shall not use such Confidential Information except as permitted hereunder, and shall not disclose such Confidential Information to any third party without the prior written consent of the disclosing party (the “Disclosing Party”). Each party will use the same degree of care to protect the Disclosing Party’s Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances less than reasonable care. The Receiving Party shall ensure that its employees and agents are bound to the same obligations of confidentiality as the Receiving Party. Confidential Information does not include (a) information which is known to the Receiving Party prior to the date of receipt and not obtained or derived in any manner related to this Agreement; (b) information which is or becomes part of the public domain through no fault of the Receiving Party; or (c) information which is obtained from a third party that lawfully possesses such Confidential Information and is under no obligation to keep such Confidential Information confidential. The Receiving Party may disclose the Confidential Information of the other in response to a valid court order, law, rule, regulation or other governmental action, provided that the Disclosing Party is notified in writing prior to disclosure of the information to permit the Disclosing Party to oppose such disclosure by appropriate legal action. Upon the termination or expiration of this Agreement or upon the earlier request of the Disclosing Party, the Receiving Party will (i) promptly return to the Disclosing Party all Confidential Information or

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(ii) upon written request from the Disclosing Party, destroy such Confidential Information and provide the Disclosing Party with written certification of such destruction. Upon termination or expiration of this Agreement, the Receiving Party shall cease all further use of any Confidential Information, whether in tangible or intangible form.

6. Warranties. Contractor represents, warrants and agrees (a) to seek Referrals in accordance with this Agreement and in a manner consistent with all applicable laws, rules and regulations, and to obtain all professional licenses required to comply with such laws, rules and regulations, (b) that it shall not interfere in the business relationship between Company and Referrals, (c) that it shall not make any misrepresentations regarding Company or any of the Services, (d) that this Agreement does not, to Contractor's knowledge, cause Contractor to violate any law, statute or regulation and does not breach any other material agreement or material covenant to which Contractor is a party or is bound.

7. Limitation of Liability. THE SOLE AND EXCLUSIVE REMEDY FOR EITHER OF THE PARTIES FOR THE BREACH OF ANY AND ALL WARRANTIES AND OBLIGATIONS UNDER THIS AGREEMENT, AND THE SOLE REMEDY FOR LIABILITY OF EITHER OF THEM OF ANY KIND UNDER THIS AGREEMENT (INCLUDING LIABILITY FOR NEGLIGENCE) IS LIMITED TO THE AMOUNT OF THE COMMISSION PAYABLE TO THE CONTRACTOR BASED ON THIS AGREEMENT. IN NO EVENT, WHETHER IN CONTRACT OR IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT), WILL EITHER OF THE PARTIES BE LIABLE FOR LOST PROFITS, INDIRECT OR CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

8. Indemnification Each Party shall, to the extent allowed by law, defend, indemnify and hold harmless the other from and against any and all claims, losses, causes of action, judgments, damages and expenses to the extent caused by the negligent actions or omissions of the indemnifying party, its employees, officers, or agents for which the indemnifying Party would be liable in law or equity.

9. Miscellaneous.

- a. **Advertising.** Contractor shall advertise the Services only under Company trademarks and/or trade names and not otherwise; Contractor shall execute and deliver in accordance with Company's request for such papers, and conduct at Company's expense such legal proceedings, as Company deems necessary for the safeguarding of any of Company's trademarks or trade names.

Contractor acknowledges Company's exclusive ownership of Company's trademarks and trade names (whether registered or not), and shall take no action inconsistent with such ownership.

- b. **Ethical Behavior.** Contractor shall not offer or pay any bribe to any individual or corporation. When other individuals or organizations are required to participate in the activities covered by this Agreement, they shall be compensated fairly based on the tasks performed. In no circumstances are public servants or holders of public office to be offered or paid any bribe or other benefit, direct or indirect. No contribution in any way related to Company shall be made by Contractor to candidates for public office or to political parties or other political organizations, regardless of whether such contributions are permitted by local laws.
- c. **Relationship of the Parties.** Contractor is an independent contractor who will receive its sole compensation under this Agreement by way of a commission as defined in Section 2 hereof. Except as otherwise expressly set forth in this Agreement, Contractor shall not be entitled to any benefits that are afforded to regular employees of Company. During the Term of this Agreement, Contractor shall not provide the Sales Functions for any other entity. Contractor shall be free to set hours, work schedule, and sales manner and method, subject to the requirements of this Agreement. Contractor is not an agent, subsidiary or employee of Company. Other than as expressly provided in this Agreement, Contractor, its agents, and employees have no power or authority to create any implied or express liability or obligation in the name of, or on behalf of Company, and shall not enter into any contract that purports to bind Company with any person or entity.
- d. **Successors and Assigns.** This Agreement will be binding upon, and will inure to the benefit of, the permitted successors and assigns of each party hereto. Contractor may not assign, delegate or otherwise convey this Agreement or any of its rights and obligations hereunder, to any other entity without the prior written consent of Company, and any attempted assignment or delegation without such consent will be void. Company may assign this Agreement to any successor in interest to all or any part of Company's operations, so long as the assignee agrees in writing to be bound by the terms and conditions of this Agreement.

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- e. Waiver. The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect, unless such waiver is provided in writing.
- f. Construction; Severability. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the parties to this Agreement, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect.
- g. Arbitration: Company and the Contractor will undertake all reasonable measures for the peaceful settlement of all disputes, disagreements and claims related to this Agreement. If any dispute arises in relation to this Agreement, including any question as to its existence, validity or termination, and such dispute cannot be resolved between the Parties; such dispute shall be referred to and finally resolved by arbitration under the applicable rules. Any arbitration shall take place in the State of Pennsylvania. Any arbitration proceeding will be conducted in English. Any judgment rendered shall be final and binding on the Parties.

If to Company:

If to Contractor:
Antosh Marketing
PO Box 267
Horsham, PA 19044

- j. Survival. Any right or obligation which becomes absolute before termination of this Agreement for any reason, or which is by definition of a continuing nature, will survive such termination. Notwithstanding and without limiting the forgoing, Sections 4 through 9 survive the termination of this Agreement.
- k. Governing Law. This Agreement and all of the parties' respective rights and obligations in connection therewith will be governed by Pennsylvania law (excluding conflict rules) and the parties submit to the jurisdiction of the state and federal courts located in Pennsylvania for the resolution of all disputes under or relating to this Agreement or its performance.
- l. Entire Agreement. This Agreement and any Exhibits attached hereto constitute the entire agreement between the parties with respect to the subject matter and supersede any prior or contemporaneous agreement or understanding, whether written or oral, if any, between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Company:

Contractor: Antosh Marketing

By:

By:

Name:

Name:

Date:

Date:
