

## Advertising Agency Agreement

This Advertising Agency Agreement ("Agreement") is made and effective May 14, 2023, by and between Thomas Worldwide / Thomas Communications, ("herein after called as Advertiser") and \_\_\_\_\_, ("herein after called as Agency").

### Legal Status and Business of Advertiser

The Thomas Worldwide / Thomas Communications is a Marketing Agency duly organized, validly existing, and in good standing under the laws of the State of California. The Thomas Worldwide / Thomas Communications has its principal office and place of business at 700 West 7th Street, Los Angeles, California 90017. The Advertiser is in the business of Marketing Business Center and in order to fully advertise such business desires to obtain the assistance and representation of the \_\_\_\_\_.

### Legal Status and Business of Agency

The Agency is a \_\_\_\_\_ duly organized under the laws of the State of \_\_\_\_\_. The Agency has its principal office and place of business at \_\_\_\_\_, \_\_\_\_\_. The \_\_\_\_\_ is in the business of assisting and representing its clients on advertising matters, including the preparation of advertising material and the obtaining of media space or time to present such advertising. \_\_\_\_\_ provides advertising agency services for fee.

Thomas Worldwide / Thomas Communications desires to engage \_\_\_\_\_ to render, and \_\_\_\_\_ desires to render to Thomas Worldwide / Thomas Communications, certain advertising agency services, all as set forth.

### Products or Services to Be Advertised

The products or services which are to be advertised include: Marketing Services, E-commerce Services, Import/export services, products and services..

### Appointment of Agency

Thomas Worldwide / Thomas Communications agrees to retain and appoint the \_\_\_\_\_ to represent Thomas Worldwide / Thomas Communications in carrying out Thomas Worldwide / Thomas Communications's advertising program, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

#### 1. Agency Services

\_\_\_\_\_ agrees to act as Thomas Worldwide / Thomas Communications's advertising representative and to perform, upon authorization by Thomas Worldwide / Thomas Communications, any or all of the following services to the extent necessary to meet Thomas Worldwide / Thomas Communications's needs:

- a. Study and analyze Thomas Worldwide / Thomas Communications's business and products or services and survey the market therefore.
- b. Develop an advertising program designed to meet Thomas Worldwide / Thomas Communications's needs and budgetary limitations.
- c. Counsel Thomas Worldwide / Thomas Communications on his overall merchandising program or make plans therefore.
- d. Determine and analyze the effect of the advertising used.
- e. Plan, create, write, and prepare layouts and the actual copy to be used in advertisements of all

- types.
- f. Analyze all advertising media to determine those which are most suitable for use by Thomas Worldwide / Thomas Communications.
  - g. Make contracts with the advertising media for space or time and with others to effectuate the advertising program and obtain the most favorable terms and rates available.
  - h. Check and follow up on all contracts with the various media for proper performance in the best interests of the Advertiser, including the appearance, accuracy, date, time, position, size, extent, site, workmanship, and mechanical reproduction, as appropriate to the advertisements used.
  - i. Negotiate, arrange, and contract for any special talent required and for all photography, models, special effects, layouts, and art work, and for all printing, including any required engravings, electrotypes, typography, and any other necessary technical material for use in the advertising program.
  - j. Make timely payments to all persons or firms supplying goods or services in connection with the advertising program.
  - k. Advise and bill Thomas Worldwide / Thomas Communications for all remittances made by the Agency for the Advertiser's account and maintain complete and accurate books and records in this regard.
  - l. Cooperate with Thomas Worldwide / Thomas Communications and Thomas Worldwide / Thomas Communications's other representatives with regard to achieving the best possible tax advantages to Thomas Worldwide / Thomas Communications with respect to advertising expenditures.
  - m. Insert the appropriate \_\_\_\_\_'s copyright notice on all advertising material prepared for any publication.

## **2. Products**

\_\_\_\_\_ 's engagement shall relate to the following products and services of Thomas Worldwide / Thomas Communications: Marketing Services, E-commerce Services, Import/export services, products and services.

## **3. Prior Approval of Advertiser**

\_\_\_\_\_ shall not incur any obligations or provide any services for Thomas Worldwide / Thomas Communications's account without first obtaining written approval therefore from Thomas Worldwide / Thomas Communications or any other person designated by Thomas Worldwide / Thomas Communications in writing. In order to obtain Thomas Worldwide / Thomas Communications's approval, \_\_\_\_\_ shall submit written proposals to Thomas Worldwide / Thomas Communications, containing full descriptions of the proposed advertisements and estimates of the cost of the obligations or services involved, including media costs, cost of preparation of the advertisements, costs of production, and any additional costs, such as travel, mailing, postage, and similar items.

## **4. Exclusivity**

Agency shall be the exclusive advertising agency in the U.S. for Thomas Worldwide / Thomas Communications with respect to Marketing Services, E-commerce Services, Import/export services, products and services..

## **5. Advertising Costs and Expenditures**

- a. Thomas Worldwide / Thomas Communications shall reimburse \_\_\_\_\_ for all costs incurred and expenditures made on behalf of Thomas Worldwide / Thomas Communications for approved advertising, except as specifically provided herein and, in addition, Thomas Worldwide / Thomas Communications shall compensate \_\_\_\_\_ for services rendered.

- b. Thomas Worldwide / Thomas Communications shall pay \_\_\_\_\_ for its direct costs of mailing, packaging, shipping, taxes and duties, and telephones and telegrams incurred by \_\_\_\_\_ in connection with the performance of this Agreement.
- c. Thomas Worldwide / Thomas Communications shall pay all of \_\_\_\_\_'s costs for any necessary traveling done on behalf of Thomas Worldwide / Thomas Communications. \_\_\_\_\_ must secure Thomas Worldwide / Thomas Communications's approval prior to incurring any expense for travel on behalf of Thomas Worldwide / Thomas Communications.
- d. In the event media or other charges increase or decline after \_\_\_\_\_ has submitted an estimate, Thomas Worldwide / Thomas Communications shall pay for such increase or be given a credit for such reduction, as the case may be.

## **6. Agency's Compensation.**

- a. \_\_\_\_\_ shall receive a commission of 15 of the gross charges made by the advertising media for time or space used by Thomas Worldwide / Thomas Communications, except with respect to outdoor advertising for which \_\_\_\_\_'s commission shall be 15 of the gross charges.
- b. \_\_\_\_\_ shall receive a commission of 15 of the charges made by third parties with whom \_\_\_\_\_ has contracted for products or services which are to be used to implement the advertising proposals approved by Thomas Worldwide / Thomas Communications.
- c. For those items where \_\_\_\_\_ is not compensated on a commission basis, Thomas Worldwide / Thomas Communications shall pay \_\_\_\_\_ on an hourly basis for services provided hereunder.
- d. In the event of special projects, \_\_\_\_\_ shall prepare an estimate of total charges for any such special project, including therein any charges for materials or services purchased from outside sources. In the event that Thomas Worldwide / Thomas Communications elects to proceed with the special project based upon \_\_\_\_\_'s estimated cost, \_\_\_\_\_ shall perform the services with respect to such special project at its estimated cost, subject to modification as mutually agreed by the parties.
- e. Thomas Worldwide / Thomas Communications shall not be obligated to reimburse \_\_\_\_\_ for any travel or other out-of-pocket expenses incurred in the performance of services pursuant to this Agreement unless expressly agreed by Thomas Worldwide / Thomas Communications in advance.

## **7. Billing**

- a. \_\_\_\_\_ shall bill Thomas Worldwide / Thomas Communications in conformity with the standards recommended by the American Association of Advertising Agencies and on \_\_\_\_\_'s standard forms.
- b. \_\_\_\_\_ shall bill Thomas Worldwide / Thomas Communications from time to time as necessary to take advantage of cash discounts provided by the media and other third-party suppliers. Bills estimating the costs involved may be preliminarily used, but final, detailed bills, supported by invoices of charges of third parties and showing all adjustments and credits, will be submitted to Thomas Worldwide / Thomas Communications as soon as available.
- c. \_\_\_\_\_'s bills shall indicate the amount of media commissions involved and the adjustments thereof necessary to bring them into conformity with this Agreement. The amount of cash discount allowed to \_\_\_\_\_ by third-party suppliers will be credited to Thomas Worldwide / Thomas Communications provided that payment is made to \_\_\_\_\_ in accordance with the specific discount terms contained in \_\_\_\_\_'s bills to Thomas Worldwide / Thomas Communications, and provided further that the Advertiser is not in default in payment of any amounts due to \_\_\_\_\_.

## **8. Indemnification and Insurance**

Thomas Worldwide / Thomas Communications shall indemnify and hold the \_\_\_\_\_ harmless from and against any and all claims, liabilities, or damages arising from the preparation or presentations of any advertising covered by this Agreement including the costs of litigation and counsel fees.

\_\_\_\_\_ agrees to procure and maintain in force during the term of this Agreement, at \_\_\_\_\_'s expense, an advertising agency liability policy or policies having a minimum limit of at least \$0.00, naming Thomas Worldwide / Thomas Communications as an additional insured and loss payee under such policy or policies.

## **9. Term and Termination**

The term of this Agreement shall commence on \_\_\_\_\_ and shall continue in full force and effect until terminated by either party upon at least 3 days prior written notice. The rights, duties and obligations of the parties shall continue in full force during or following the period of the termination notice until termination, including the ordering and billing of advertising in media whose closing dates follow then such period. On receipt of notice of termination, \_\_\_\_\_ shall not commence work on any new advertisements, but it shall complete and place all advertisements previously approved by Thomas Worldwide / Thomas Communications. All other rights and duties of the parties shall continue during the notice period and Thomas Worldwide / Thomas Communications shall be responsible to \_\_\_\_\_ for the payment of any contract obligation incurred with third parties during this period.

In the event Thomas Worldwide / Thomas Communications or \_\_\_\_\_ desires to terminate all work in progress on advertisements commenced before receipt of notice of termination, it may be so agreed upon the parties' mutual consent and determination of the compensation to be received by \_\_\_\_\_ for partially completed work.

## **10. Assignment of Contracts**

\_\_\_\_\_ shall assign to Thomas Worldwide / Thomas Communications all of its rights in contracts, agreements, arrangements, or other transactions made with third parties for Thomas Worldwide / Thomas Communications's account, effective on the date of termination or on such other date as may be agreed upon by the parties; and Thomas Worldwide / Thomas Communications shall assume all obligations and hold \_\_\_\_\_ harmless from all liability there under. In the event any such contract is nonassignable and consent to assignment is refused, or \_\_\_\_\_ cannot obtain a release from its obligations, \_\_\_\_\_ shall continue performance thereof, and Thomas Worldwide / Thomas Communications shall meet its obligations to the \_\_\_\_\_ as though this Agreement had not been terminated.

## **11. Disposition of Property and Materials**

All plans, preliminary outlines, sketches, copy, and all other property and materials which are produced by reason of the terms of this Agreement shall be the property of the Advertiser as soon as payment has been made therefore. Upon termination of this Agreement, all such property and materials shall be the property of \_\_\_\_\_ unless Thomas Worldwide / Thomas Communications pays therefore in accordance with the terms of this Agreement even though Thomas Worldwide / Thomas Communications or another party has physical possession thereof.

## **12. Competitors**

During the term of this Agreement, \_\_\_\_\_ may not accept employment from, render services to, represent or otherwise be affiliated with any person, firm, corporation or entity in connection with any

product or service directly or indirectly competitive with or similar to any product or service of Thomas Worldwide / Thomas Communications with respect to which the \_\_\_\_\_ is providing any service pursuant to this Agreement.

**13. Cost Estimates.**

\_\_\_\_\_ shall not commence work on any project pursuant to this Agreement without first estimating costs for preparation, including copy, service, layout, art, engraving, typography, processing, and paste up and production. After determining the estimated cost, completion of the work shall be subject to Thomas Worldwide / Thomas Communications's prior approval.

**14. Audit Rights.**

\_\_\_\_\_ agrees that following reasonable prior notice any and all contracts, agreements, correspondence, books, accounts, and other information relating to Thomas Worldwide / Thomas Communications's business or this Agreement shall be available for inspection by Thomas Worldwide / Thomas Communications and Thomas Worldwide / Thomas Communications's outside accountants, at Thomas Worldwide / Thomas Communications's expense.

**15. Ownership and Use**

\_\_\_\_\_ shall insure, to the fullest extent possible under law, that Thomas Worldwide / Thomas Communications shall own any and all right, title and interest in and to, including copyrights, trade secret, patent, and other intellectual property rights, with respect to any copy, photograph, advertisement, music, lyrics, or other work or thing created by \_\_\_\_\_ or at \_\_\_\_\_'s direction for Thomas Worldwide / Thomas Communications pursuant to this Agreement and utilized by Thomas Worldwide / Thomas Communications.

**16. Default**

In the event of any default of any material obligation by or owed by a party pursuant to this Agreement, then the other party may provide written notice of such default and if such default is not cured within 5 days of the written notice, then the non-defaulting party may terminate this Agreement.

**17. Force Majeure**

If performance of this Contract or any obligation under this Contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**18. Arbitration**

Any controversies or disputes arising out of or relating to this Contract shall be resolved by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association. The parties shall select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Contract. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location that is reasonably centrally located between the parties, or otherwise mutually agreed upon by the parties. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made

available to the other party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority to modify any provision of this Contract or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Contract.

**19. Final Agreement**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**20. Legal Construction**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision. This Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

**21. Parties Bound**

This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors and assigns as permitted by this Agreement.

**22. Governing Law**

This Agreement shall be construed and enforced in accordance with the laws of the state of California.

**23. Attorneys' Fees**

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled.

**24. SIGNATORIES.**

This Agreement shall be signed by \_\_\_\_\_, President/CEO on behalf of Thomas Worldwide / Thomas Communications and by Blair Thomas, President /CEO on behalf of \_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have executed this Advertising Agency Agreement.

THOMAS WORLDWIDE / THOMAS COMMUNICATIONS

By: Blair Thomas  
Blair Thomas, President/CEO

Date: 05/14/2023

\_\_\_\_\_

By: \_\_\_\_\_  
Blair Thomas, President /CEO

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