

SAMPLE

CLIENT SERVICE AGREEMENT

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## 1 IDENTIFICATION OF THE PARTIES

- 1.1 This Service Agreement (the 'Agreement') is made and entered into on this [Current Date] day of [Current Month] (the 'Effective Date') by and between [Client Company Name] with its registered address at [Client Company Address] (the 'Client') and Trujillo Media (the 'Service Provider').
- 1.2 The Client and the Service Provider are hereinafter referred to individually as a 'Party' and collectively as the 'Parties'.
- 1.3 By accepting this Agreement and subject to the terms and conditions herein, the Service Provider agrees to provide [Website Development / Social Media Services / Website Maintenance] (the 'Services') to the Client in connection with its business operations.

## 2 ENGAGEMENT AND SERVICES

*[Section 2.1 is for project-based work.]*

- 2.1 The Client hereby engages the Service Provider to provide and perform the following Services in connection with [Website Development / Social Media Services / Website Maintenance]. These Services shall include the following:

- 2.1.1 *Sample scope of work*

*[Section 2.2 is for retainer-based work or services that you bill by the hour. Only keep and edit the necessary services of this section if you're doing this type of work, otherwise remove it.]*

- 2.2 The Client hereby engages the Service Provider to provide and perform the following Services on an ongoing basis, in terms of a retainer arrangement in connection with [insert name or description of project/business operations]. These Services shall include the following

- 2.2.1 *Sample Scope of work*

- 2.3 All Services to be performed by the Service Provider shall be performed with promptness, in a diligent manner and at a level of proficiency to be expected from the Service Provider with the background and experience that the Service Provider has represented it has. The

Client shall provide the Service Provider with the necessary access to information, property and personnel as may be reasonably required in order to permit the Service Provider to perform the Services listed above.

### 3 SERVICE PERIOD AND TERMINATION

- 3.1 This Agreement shall commence on the Effective Date and shall remain in effect until the completion of the Service, or the earlier termination of this Agreement as provided in section 3.2 of the Agreement.

This Agreement shall commence on [date] and shall terminate on [date].

- 3.2 Either party may elect to terminate the Agreement by providing at least one months' notice (30 calendar days) to the other Party. Such notice must be in writing. Payment for the Services performed to date are not recoverable upon termination. Termination does not preclude the Client from payment of Services to date of termination and up to the final day of the month in which the agreement is terminated. Any expenses incurred by the Service Provider or to be incurred on behalf of the Client at the date of learning of the termination will still be due and payable.
- 3.3 Either Party will be informed in writing at of any change in the Service Agreement at least one month in advance of the termination of a service.
- 3.4 Upon the effective date of termination of this Agreement, all legal obligations, rights and duties arising out of this Agreement shall terminate except for such legal obligations, rights and duties as shall have accrued prior to the effective date of termination and except as otherwise stated in this Agreement.

### 4 FEES FOR SERVICES PERFORMED

- 4.1 Payment is to be made via Quickbooks Online Payment or Venmo within 3 working days on receipt of invoice.
- 4.2 Project Based Work:

4.2.1 The Client agrees to pay the Service Provider a project fee of [Project Quote]. The Service Provider's obligation to render the Services mentioned in Section 2 of this Agreement is conditional upon payment by the Client in the following terms (the 'Project Based Schedule'):

4.2.1.1 50% down payment upon signing this agreement (the 'Down Payment').

4.2.1.2 The remaining 50% is to be paid upon completion of website before final delivery is made to The Client

4.2.1.3 The completion of the project is described hereunder:

- Completion condition 1
- Completion condition 2

4.2.2 If during any time of the project duration the Client fails to make payment in terms of the Project Based Schedule, the Service Provider may cease provision of the Services until payment of the outstanding fee has been made. If a portion of such outstanding fee remains unpaid for more than 14 days after becoming due, a penalty of 15% of the outstanding amount will become due and payable. The Service Provider is not obligated to provide Services to the Client if there are any outstanding fees or penalties remaining due and payable.

*[Section 4.3 is for retainer-based work. Only keep and edit this section if you're doing this type of work, otherwise remove it.]*

4.3 Retainer based work

4.3.1 In consideration for Services rendered, the Client agrees to pay the Service Provider's fee of [Monthly Fee] which will be due up front on the first of each month for that month's Services until the Agreement has ended.

4.3.2 If such amount is not received by this date, the Service Provider reserves the right to cease provision of Services to the Client. If a portion of an outstanding fee remains unpaid for more than 14 days after becoming due, a penalty of 15% of the outstanding amount will become due and payable.

4.4 Advertising fees

- 4.4.1 All advertising fees, such as Google Ads, Facebook Ads, and any other related advertising fees, are for the Client's account.
- 4.4.2 The Client is committed to spend a minimum of [\$\$] for Google Ads and [\$\$] for Facebook Ads each month, for the validity of this Agreement.

## 5 OBLIGATIONS OF THE CLIENT

- 5.1 The Service Provider will not commence work until the Client has provided all the necessary data, photography, tools and other necessary information that may be required by the Service Provider to effectively perform the Services rendered.
- 5.2 The Client agrees that the completion of one or more of the deliverables may depend on and require the Client's commitment of certain resources which should be promptly provided. The Client agrees to provide such resources as are necessary to fulfil the Service Provider's and its own obligations under this Agreement and to timely complete and fulfil its required actions in order for the Service Provider to be able to fully comply with its obligations under this Agreement. The Client's failure to provide such resources and to timely fulfil such obligations shall not constitute a basis for the retention of payments and/or allegations of breach of contract by the Client.

## 6 OWNERSHIP AND RISK

- 6.1 The Service Provider remains the owner of all equipment, software and records used or produced in the service of the Client, until the amount owed by the Client to the Service Provider has (have) been paid in full.
- 6.2 After payment in full, the Client is the owner of all products, data and reports produced by the Service Provider.
- 6.3 The Service Provider is not responsible for anything falling outside the scope of services referred to in Section 2 of the Agreement unless such services have been agreed to in writing. These additional Services shall be subject to the terms and conditions of the Agreement as if they have been incorporated hereto.
- 6.4 The Client hereby guarantees that the Service Provider shall not be held liable for the results or does not warranty any results flowing from the Services provided by the Service

Provider. It is acknowledged that such Services are based on subjective influences which hold no bearing on the liability of, nor can they be controlled by, the Service Provider.

## 7 CONFIDENTIALITY AND RESPONSIBILITY

- 7.1 In this Agreement, the Services performed and any and all information relating to the Client's business, including, but not limited to, research, developments, products plans, products, services, diagrams, formulae, processes, techniques, technology, software, ideas, discoveries, designs, inventions, improvements, copyrights, trademarks, marketing, sales, trade secrets, intellectual property, finances disclosed by the Client is hereinafter referred to as 'Confidential Information'.
- 7.2 Confidential Information does not include information which:
  - 7.2.1 Is in or comes into the public domain without a breach of this Agreement by the Service Provider.
  - 7.2.2 Was in the possession of the Service Provider prior to receipt from the Client and was not acquired by the Service provider from the Client under an obligation of confidentiality or non-use.
  - 7.2.3 Is acquired by the Service Provider from a third party not under an obligation of confidentiality or non-use to the Client.
  - 7.2.4 Is independently developed by the Service Provider without use of any confidential information of the Client.
- 7.3 Unless otherwise agreed to in advance and in writing by the Client, the Service Provider will not, except as required by law or court order, use the Confidential Information for any purpose whatsoever other than the performance of the Services or disclose the Confidential Information to any third party.
- 7.4 Upon termination or expiration of this Agreement for any reason, or upon the Client's earlier request, the Service Provider will deliver to the Client all of the Client's property or Confidential Information in tangible form that the Service Provider may have in their possession or control.
- 7.5 The enlisting of third parties outside the Agreement to carry out the Services shall be subject to the consent of the Client if and in so far as such enlistment would create a foreseeable risk with respect to Confidential Information.

## **8 NO COMPETITION**

8.1 During the term of this Agreement, the Service Provider will engage in no business or other activities which are directly competitive with the business activities of the Client's local geographic target audience in the Client's respective trading city/town without obtaining the prior written consent of the Client.

## **9 WARRANTIES**

9.1 The Service Provider warrants and represents that it has full capacity and authority to enter into the Agreement and that the Services performed by the Service Provider, or any third party instructed by the Service Provider, will be rendered in accordance with sound professional practices and in a competent manner of the level of capability represented to the Client.

9.2 The Client warrants and represents that it has full capacity and authority to enter into the Agreement and has the ability, including relevant permissions, licences and consents necessary to perform its obligations in terms of the Agreement.

9.3 Except as provided for in this Agreement, the Parties make no further warranties either expressly or impliedly.

## **10 INDEPENDENT CONTRACTORS**

10.1 The Service Provider agrees that all Services will be performed by the Service Provider as an independent contractor and that this Agreement does not create an employer-employee relationship between the Service Provider and the Client. The Service Provider shall have no right to receive any employee benefits provided by the Client to its employees. The Service Provider agrees to pay all taxes due in respect of the Service Fee and to indemnify the Client in respect of any obligation that may be imposed on the Client to pay any such taxes or resulting from the Service Provider's being determined not to be an independent contractor. This Agreement does not authorize the Service

Provider to act for the Client as its agent or to make communications on behalf of the Client.

## **11 LIMITATION OF LIABILITY**

- 11.1 In no event shall the Service Provider be liable to the Client for any loss of profit, loss of business, loss of data, or for any indirect, incidental, consequential, special or exemplary damages arising in connection with the services provided to client or any agreement between the parties relating thereto (whether based on breach of contract, breach of warranty, negligence or any other legal theory), even if the Service Provider has been advised of the possibility of such damages.
- 11.2 The entire liability of the Service Provider to the Client in connection with the Services provided to the Client and any agreement between the parties relating thereto (whether based on breach of contract, breach of warranty, negligence or any other legal theory) shall not exceed, in the aggregate, the total amount of fees paid or becoming due under this Agreement in the twelve (12) month period immediately preceding the event giving rise to such liability.
- 11.3 The abovementioned limitations in this section of the Agreement shall not apply to a breach of confidentiality or a breach of one's rights or obligations under the transfer of intellectual property rights as set out in section 7.

## **12 TRANSFER OF INTELLECTUAL PROPERTY RIGHTS**

- 12.1 The Service Provider grants all IP rights to the Client upon final payment for the Services performed in exchange for a right to use the content developed for marketing and business development purposes and retains ownership over the Work Product.

The Service Provider shall, upon the Client's compliance with the terms of the Agreement and final payment for Services performed, transfer or convey to the Client all rights, including, without limitation, copyrights, patents, trade secret rights, and other intellectual property rights associated with any ideas, concepts, inventions, works of authorship, Confidential Information – that have been or will be developed or created by



the Service Provider, solely or jointly with others, for the Client for use in perpetuity in any manner whatsoever (the 'Work Product'). The Service Provider waives any moral right in respect of the Client's use of the Work Product. Notwithstanding the aforementioned clauses, the Client hereby agrees, irrevocably and non-exclusively, to grant the Service Provider a right to display the written or visual content developed by the Service Provider for the Client in advancing the Service Provider's business development and marketing strategy. Notwithstanding the aforementioned, the Service shall retain ownership to certain aspects of the Work Product:

- Google Ads Account, Campaign Setup and Strategy
- Facebook Ads Account, Campaign Setup and Strategy

12.2 The Service Provider shall maintain ownership to all rights, including, without limitation, copyrights, patents, trade secret rights, and other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, works of authorship, Confidential Information or trade secrets – that have been or will be developed or created by the Service Provider, solely or jointly with others, for the Client (the 'Work Product'). The Service Provider reserves the right to use the intellectual property rights for display, publication, advertising or other purposes. Upon receipt of final payment, Client grants the Service Provider a non-exclusive, unlimited license to use the Work Product.

## 13 ASSIGNMENT

13.1 The Services to be performed by the Service Provider herein are personal in nature, and the Client has engaged the Service Provider as a result of the Service Provider's expertise relating to such Services. The Service Provider, therefore, agrees that it will not assign, sell, transfer, delegate or otherwise dispose of this Agreement or any right, duty, or obligation under this Agreement without the Client's prior written consent. Nothing in this Agreement shall prevent the assignment by the Client of this Agreement or any right, duty or obligation herein to any third party

## 14 GOVERNING LAW AND DISPUTE RESOLUTION

- 14.1 This Agreement shall be construed in accordance with and be subject to the laws of the State of Colorado. All court proceedings relating to or arising out of this Agreement shall be solved by the Courts of Colorado.
- 14.2 The Parties agree to attempt to settle any dispute arising out of or relating to the Agreement amicably, before commencing any court proceedings, which includes mediation and/or arbitration.
- 14.3 If the mediation fails, then the Parties will attempt jointly to make a written record of those matters (if any) relating to the dispute which have been agreed to by them, for submission in any later arbitration. The mediator's role will cease, at the latest, upon commencement of any arbitration proceedings. The mediator will not be available to appear as a witness in the arbitration, nor to provide any additional evidence obtained during the mediation. The Parties agree that their good faith in conducting any mediation proceedings is a condition to pursuing any other legal or equitable remedy which includes litigation, arbitration or other dispute resolution procedures.
- 14.4 Any disputes arising out of or in connection with this dispute which cannot be settled in accordance with section 14.2 above, shall be settled in accordance with the rules of arbitration by one or more arbitrators in accordance with the said rules.

## **15 RECOVERY OF LITIGATION EXPENSES**

- 15.1 If any legal action, arbitration or other proceeding is necessary for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation with the provisions of this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or legal proceedings.

## **16 GENERAL**

- 16.1 This Agreement constitutes the entire agreement of the Parties on the subject hereof and supersedes all prior understandings and instruments on such subject. This Agreement may not be modified other than by a written instrument executed by duly authorized representatives of the Parties.

16.2 No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either Party to enforce any provision of this Agreement shall not constitute a waiver of such provision or any other provision(s) of this Agreement.

16.3 Should any provision of this Agreement be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent the Parties and enforced as modified. All other terms and conditions of this Agreement shall remain in effect and shall be construed in accordance with the modified provision.

## 17 SEVERABILITY

17.1 If any court of competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal, or unenforceable, that provision or part provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

## 18 SIGNATURES

18.1 The Parties duly execute this Agreement by their signatures below:

Company: \_\_\_\_\_ Company: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

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