

# Terms of Service

These Terms of Service (“Terms”) constitute an agreement governing the use of the Services (defined below) provided by Prominent Marketing, LLC, a Georgia limited liability company doing business as Marketing Ninjas (“Agency”) to the client identified in the applicable Performance Agreement (“Client”). These Terms are effective as of the date of the signed Performance Agreement or, if earlier, the date upon which Client first accesses the Services (the “Effective Date”). These Terms incorporate by reference the Performance Agreement and any schedules, exhibits, or addenda attached thereto (collectively with these Terms, the “Agreement”).

## 1. Relationship of the Parties

### 1.1 Independent Contractor Relationship:

Agency is an independent contractor, and this Agreement shall not be construed to create any association, partnership, joint venture, employee, or agency relationship for any purpose. Agency has no authority to bind Client outside the scope of Services and shall not make any agreements or representations on Client’s behalf without prior written consent. Each Party acknowledges that no fiduciary duty exists between them and that nothing herein shall be interpreted to create an employment relationship or entitlement to employee benefits.

## 2. Confidentiality

### 2.1 Definition of Confidential Information:

“Confidential Information” means each Party’s proprietary information including trade secrets, technology, business operations, strategies, customers, pricing, marketing, finances, sourcing, personnel, and operations in any form or medium. For Agency, Confidential Information also includes outreach methodologies, scripts, templates, campaign strategies, contact databases, Lead Engine platform features, and proprietary systems.

Each Party (the “Receiving Party”) shall treat all Confidential Information of the other Party (the “Disclosing Party”) as strictly confidential and not disclose it to any third party while the Disclosing Party treats such information as confidential or as required by law, except as reasonably required to perform obligations under this Agreement. Any person to whom Confidential Information is disclosed shall have substantially similar non-disclosure obligations. The Receiving Party shall use Confidential Information solely for purposes of this Agreement, notify the Disclosing Party immediately of any loss or unauthorized disclosure, and may share Confidential Information with its employees, contractors, and partners solely for performing duties under this Agreement.

## **2.2 Exclusions from Confidentiality:**

Confidential Information shall not include information that: (a) is or becomes generally available to the public other than through the Receiving Party's breach of this Agreement; (b) is communicated to the Receiving Party by a third party that had no confidentiality obligations with respect to such information; (c) was already in the Receiving Party's possession prior to disclosure; or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

## **2.3 Return or Destruction of Confidential Information:**

Upon termination or expiration of this Agreement, or upon written request by the Disclosing Party, the Receiving Party shall promptly return or destroy all Confidential Information in its possession, including all copies, extracts, and derivatives, and certify such return or destruction in writing within fourteen (14) days. Notwithstanding the foregoing, the Receiving Party may retain copies as required by law or internal compliance policies, provided such retained copies remain subject to the confidentiality obligations herein.

## **2.4 Permitted Disclosures by Law:**

Nothing herein shall prevent disclosure of Confidential Information as required by applicable law, regulation, or pursuant to valid court order or government agency directive, provided disclosure does not exceed the required extent. The Receiving Party shall provide written notice of any such order to the Disclosing Party within three (3) days of receipt, and in any event sufficiently in advance to permit the Disclosing Party to contest the order or seek confidentiality protections.

## **2.5 Injunctive Relief for Confidentiality Breach:**

Each Party acknowledges that a breach of this Section 2 may cause immediate and irreparable harm for which monetary damages alone would be inadequate. The Disclosing Party shall be entitled to seek injunctive relief, specific performance, or other equitable remedies, in addition to all other remedies available at law or equity, without the requirement of posting a bond.

## **2.6 Intellectual Property and Use Restrictions:**

All strategies, materials, creative works, templates, scripts, automations, data models, processes, documents, and technology provided by Agency ("Agency IP") remain Agency's exclusive property. Agency grants Client a limited, non-exclusive, non-transferable, non-sublicensable license to use Agency IP solely for Client's internal business operations in furtherance of Services. Unless otherwise agreed in writing, this license is perpetual only as to such internal use and confers no ownership interest in Agency IP. Client shall not reproduce, modify, distribute, or commercialize any Agency IP without Agency's prior written consent. Client shall implement reasonable measures to prevent unauthorized access by employees, contractors, or affiliates. Unauthorized use

constitutes material breach and entitles Agency to injunctive relief, damages, and all remedies available at law or equity.

Nothing herein grants Client rights to Agency's name, trademarks, or branding.

### **2.7 Residual Knowledge and Consultant Rights:**

Notwithstanding any confidentiality obligations herein, Agency shall be free to use and employ its general skills, knowledge, and experience, and any ideas, concepts, know-how, methodologies, techniques, and learnings that are retained in the unaided memories of Agency's personnel ("Residual Knowledge"), even if acquired or developed in connection with performing Services for Client. Nothing in this Agreement shall prevent Agency from: (a) providing similar services to other clients; (b) developing, using, or commercializing strategies, tactics, frameworks, or approaches similar to those used for Client; (c) using general industry knowledge, market insights, or best practices observed during the engagement; or (d) independently developing materials or solutions that may be similar to those created for Client. This Section does not permit Agency to disclose Client's Confidential Information or use Client's specific proprietary data, trade secrets, or customer lists for the benefit of other clients.

## **3. Service Warranty**

### **3.1 Mutual Representations and Authority:**

Each Party represents and warrants that: (a) It has the right to enter into this Agreement, grant the rights herein, and perform all obligations; and (b) Its entering into this Agreement and performance does not and will not conflict with or result in any breach or default under any other agreement.

### **3.2 Appointment Definition and Counting Rules:**

**Appointment Definition:** An "Appointment" is a scheduled meeting or call between Client and a prospective referral partner that is (a) booked directly by the Agency into Client's calendar through the Lead Engine platform or via written confirmation, and (b) confirmed by the prospective referral partner when they perform one or more of the following actions: (i) accepting the calendar invitation, (ii) providing recorded verbal confirmation, or (iii) sending written confirmation.

**Prospective Referral Partner:** A "prospective referral partner" is an individual or entity in the Primary or Secondary Referral Partner Types described in Section 8.13(f) and (g) who operates in Client's Service Area with potential to provide qualified referrals. Agency shall use commercially reasonable efforts to ensure partners meet basic qualification criteria (professional legitimacy, service area relevance). Agency makes no guarantee regarding quality, licensing, business practices, or suitability. Client is solely responsible for vetting and approving all referral partners before entering business relationships.

**Booking and Confirmation Standards:** “Booked directly by Agency” means Agency initiated scheduling via calendar integration, manual entry with Client permission, or direct coordination. An Appointment qualifies only if booked by Agency. Confirmation requires documented evidence: email/SMS, calendar acceptance, recorded call, or written notation (date/method). If calendar integration fails, written confirmations satisfy booking requirements.

**Verbal Confirmation and Recording:** If recording is unavailable or fails, Agency documents confirmation in Lead Engine within one (1) business day and notifies Client. Client’s failure to object within two (2) business days constitutes acknowledgment. Client waives dispute rights for verbal confirmations if Client disables or requests Agency to disable call recording. If Agency’s recording fails more than three (3) times in thirty (30) days, Agency implements corrective measures and obtains corroborating evidence.

**Counting Rules:** An Appointment counts toward the Measurement Period (Section 3.3) in which the prospective partner confirms a date and time, since confirmation shows genuine intent to meet. If the prospective partner later reschedules, the Appointment still counts toward the guaranteed minimum, because Agency cannot control changes on the partner’s end once they have confirmed. Each unique prospective partner counts once. Appointments Client schedules on its own, without Agency involvement, do not count toward the guaranteed minimum. All time references use Client’s local time zone.

**Appointment Replacement:** An Appointment will be replaced if the prospective partner did not show and review of the call reveals that the partner did not show real interest in attending the Appointment. Client must provide feedback within seventy-two (72) hours of the Appointment to submit an Appointment replacement request.

### **3.3 Performance Shortfall Remedy and Cure Period:**

**(a) Remedy.** If, at the end of the applicable Measurement Period, Agency has not delivered the guaranteed minimum number of Appointments stated in the Performance Agreement, Agency shall continue performing Services at no additional service fee until the guaranteed minimum is met, for a period of up to the applicable Cure Period (the “Cure Period”) shown below:

| <b>Performance Agreement type</b> | <b>Measurement Period</b>                   | <b>Cure Period</b>                                     |
|-----------------------------------|---------------------------------------------|--------------------------------------------------------|
| Monthly Renewal                   | Each calendar month of active, paid service | Up to 60 calendar days following the end of that month |
| 6-Month                           | The six (6)-month Campaign Term             | Up to 90 calendar days following the End Date          |
| 2-Month                           | The two (2)-month Campaign Term             | Up to 30 calendar days following the End Date          |

**(b) Pauses.** Days on which the campaign is paused under the Performance Agreement do not count toward the Cure Period.

**(c) Pro-Rated Refund Discussion.** If the guaranteed minimum has not been reached by the end of the Cure Period, the Parties will discuss a pro-rated refund. Any such refund is calculated as the number of undelivered Appointments divided by the guaranteed minimum number of Appointments, multiplied by the Service Fee actually paid for the applicable Measurement Period (for the Monthly Renewal Performance Agreement, that month's Service Fee).

**(d) Client Obligations Continue.** Client's obligations under Section 3.4 remain in full effect throughout any Cure Period. Appointments that Client does not attend, or for which outcome feedback is not provided within seventy-two (72) hours, count as delivered for purposes of the guarantee.

**(e) Scope of "No Additional Service Fee."** "No additional service fee" refers solely to Agency's internal labor and service costs. It does not include advertising expenditures, software platform fees, third-party subscriptions, or other external or pass-through costs, which remain Client's responsibility throughout the Cure Period.

**(f) Sole Remedy.** This Section 3.3 is Client's sole and exclusive remedy for any shortfall in Appointments and is the only circumstance under which a refund may be issued under this Agreement.

### **3.4 Client Obligations to Maintain the Guarantee:**

The Appointment guarantee remains active while both Parties handle their core responsibilities. Client's responsibilities are:

**(a) Use Your Coaching:** Join one (1) coaching session per month with the BDR coach and one (1) pipeline review per month with the client success manager.

**(b) Turn Meetings Into Partners:** Follow up on the partners Agency books and execute an effective partner activation strategy that converts Appointments into partners committed to referring jobs. Agency provides the playbooks, incentives, and scripts; Client provides the relationship.

**(c) Open Every Door in Your Market:** Collaborate with Agency to enable all referral partner categories that have referral opportunities within Client's market.

**(d) Tell Us How It Went:** Provide Appointment outcome feedback within seventy-two (72) hours of the scheduled Appointment time.

**(e) Keep the Lines Open:** Keep Client's calendar synced with Lead Engine and reasonably open on Business Days, and remain reachable by Slack, email, or SMS.

**(f) Specifics:** Contact 75% of leads within three (3) Business Days and make five (5) documented follow-up attempts per lead within fifteen (15) Business Days via Lead Engine; maintain calendar integration synchronized with Lead Engine and Client's calendar platform for as long as the Performance Agreement remains active; and, if

effective activation strategies are not in place, implement Agency-provided incentives and activation strategies within thirty (30) days where they apply to Client's business.

**Pause of Guarantee.** If these responsibilities are not being followed for a noticeable period and it starts to affect performance, the guarantee may pause until things are back on track. While the guarantee is paused, any Appointments Agency books for Client still count toward the guaranteed minimum, and the guarantee resumes once the required activity is restored.

**Partner Category Enablement.** The guaranteed minimum number of Appointments assumes Agency is able to work every referral partner category that has referral opportunity in Client's market. If Client declines to enable, or does not respond to requests to enable, one or more of those categories, Agency may, on written notice, either pause the guarantee under this Section or adjust the guaranteed minimum number of Appointments to reflect the reduced pool of available partners. Notwithstanding Section 8.17, such an adjustment does not require Client's separate written consent.

**Compliance Disclaimer:** Client is solely responsible for ensuring all incentives, strategies, referral arrangements, and communications comply with applicable laws (anti-kickback statutes, RESPA, licensing requirements, industry regulations). Agency's recommendations are informational only and do not constitute legal, tax, or compliance advice. Agency makes no warranty that suggested strategies comply with laws applicable to Client's industry or jurisdiction. Client must consult legal counsel before implementing incentive or referral programs. Agency shall not be liable for fines, penalties, or legal actions arising from Client's implementation of incentive programs, even if recommended by Agency. Compliance-driven restrictions shall not void the Service Warranty if Client provides reasonable alternative approaches.

### **3.5 Automatic Remedy; Verification:**

The remedy in Section 3.3 operates automatically and does not require Client to file a claim. Agency may verify Appointment records, and Client will provide reasonable access to communication records for contacts generated from the campaign for that purpose.

### **3.6 Pause of Warranty:**

Failure to meet the conditions in Section 3.4 may pause the guarantee as described in that Section. Agency will determine whether a pause is warranted in its Reasonable Discretion (Section 8.13(d)). During a pause, Appointments booked by Agency continue to count toward the guaranteed minimum, and days paused do not count toward the Cure Period or any calculation of shortfall. The guarantee resumes once the required activity has been restored.

### **3.7 Limitations on Warranty:**

Agency may deny or delay a Cure Period or refund calculation to the extent a shortfall results from Client's failure to meet the conditions in Section 3.4 or from Client's refusal

to cooperate with reasonable verification under Section 3.5. Except for the pro-rated refund described in Section 3.3(c), the guarantee does not entitle Client to any refund, credit, or reimbursement of fees.

### **3.8 Disclaimer of Implied Warranties:**

EXCEPT FOR THE EXPRESS SERVICE WARRANTY SET FORTH IN THIS SECTION 3, AGENCY PROVIDES ALL SERVICES “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND. AGENCY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. AGENCY DOES NOT WARRANT THAT SERVICES WILL MEET CLIENT’S EXPECTATIONS, THAT REFERRAL PARTNERSHIPS WILL RESULT IN REVENUE OR BUSINESS GROWTH, OR THAT CAMPAIGN RESULTS WILL BE ERROR-FREE OR UNINTERRUPTED. CLIENT ACKNOWLEDGES THAT AGENCY HAS NO CONTROL OVER THE ACTIONS OF PROSPECTIVE REFERRAL PARTNERS AND MAKES NO GUARANTEE REGARDING THEIR RESPONSIVENESS, RELIABILITY, OR BUSINESS PRACTICES.

## **4. Termination**

### **4.1 Termination:**

**(a) By Client.** Client’s termination rights are those stated in the applicable Performance Agreement:

- **Monthly Renewal:** Client may cancel at any time, including during the Minimum Term, on at least thirty (30) days’ written notice. Cancellation takes effect thirty (30) days after Agency receives the notice, and service and billing continue as normal through the notice period.
- **6-Month and 2-Month:** The Campaign Term is a fixed commitment. Client may opt out of automatic renewal by written notice at least seven (7) days before the End Date.
- **Month-to-month period following a Campaign Term:** Client may cancel at any time on at least seven (7) days’ written notice before the next scheduled billing date. If notice is given fewer than seven (7) days before that date, cancellation takes effect on the following billing cycle.

**(b) By Agency.** Agency may pause services or terminate this Agreement only for the events stated in the Performance Agreement: Non-Responsiveness (no reply to Agency communications for ten (10) consecutive Business Days and no response within five (5) additional Business Days after written notice requesting a response), Non-Payment (a payment remains unpaid for fifteen (15) Calendar Days after the scheduled payment), or a campaign that remains paused longer than the maximum pause period stated in the Performance Agreement.

#### **4.2 Effect of Termination; No Refunds:**

Upon termination: (a) Client pays all outstanding fees through the termination date; (b) all warranties end immediately upon termination (for a Client cancellation on notice, the warranty continues through the notice period, during which service and billing continue as normal); (c) no refunds are issued, except as expressly provided in Section 3.3(c); and (d) Lead Engine access is governed by Section 12. Each payment is final and non-refundable once the work for the period it covers begins. All payments made prior to termination are fully earned and non-refundable, except as provided in Section 3.3(c).

#### **4.3 Survival of Obligations:**

The following provisions survive expiration or termination: Sections 2 (Confidentiality, including 2.6 Intellectual Property), 6 (Indemnification), 7 (Hold Harmless), 9 (Cybersecurity and Data Protection), 14 (Non-Solicitation), 15 (TCPA/DNC Compliance), 16 (Platform Risk), and the Performance Agreement Effect of Termination provisions.

#### **4.4 Refund or Account Review Procedure:**

To request refund or account review, Client must schedule a call with designated Agency representative; however, such call creates no obligation or entitlement to refund unless expressly approved in writing by Agency.

#### **4.5 Cancellation Request Procedure:**

All cancellation requests require a review meeting with Agency. To initiate a cancellation request, Client must (a) submit it by email to [support@marketingninjas.io](mailto:support@marketingninjas.io) within the notice requirements of Section 4.1, and (b) participate in the review meeting, which Agency will schedule within five (5) Business Days of receiving the request. The notice period begins on the date Agency receives the written cancellation request. Cancellation requests do not guarantee any refund, do not suspend payment obligations during the notice period, and do not authorize chargebacks or payment disputes with Client's bank or card provider. All cancellation requests remain subject to the payment terms and the Effect of Termination provisions of this Agreement.

## **5. Financial Protections and No-Chargeback Provisions**

#### **5.1 Payment Timeline and Chargeback Prohibition:**

Payment timelines and cure periods are detailed in the Performance Agreement Payment Terms section and Section 8.14 of these Terms of Service. Client agrees not to initiate chargebacks or payment disputes. Any such action constitutes material breach and entitles Agency to pursue legal remedies, including recovery of costs, fees, and damages.

#### **5.2 Agency-Initiated Pause for Non-Payment:**

If any scheduled payment is past due, Agency may pause outreach and will give written notice when the pause begins and when it ends. The payment timeline is: Day 0, payment

due; Day 5, written notice if unpaid; Day 15, Agency may terminate for cause. Restarting a paused campaign is subject to the reinstatement fee and territory hold terms in the Performance Agreement, including payment of the \$500 reinstatement fee and, for failed or returned payments, Agency approval and full payment. A pause does not pause or defer Client's payment schedule, days paused do not count toward the Cure Period or any shortfall calculation, and Appointments already booked continue to count toward the guaranteed minimum.

### **5.3 Collection Costs:**

If Agency engages a collection agency or attorney to collect any amounts owed by Client, Client shall pay all costs of collection, including reasonable attorneys' fees, court costs, and collection agency fees, in addition to the amounts owed.

## **6. Indemnification**

### **6.1 Indemnification by Client:**

Client shall indemnify, defend, and hold harmless Agency and its owners, officers, employees, contractors, members, and agents (collectively, "Agency Indemnified Parties") from and against any and all claims, demands, actions, proceedings, losses, damages, liabilities, costs, expenses, and reasonable attorneys' fees arising out of or relating to: (a) any breach by Client of this Agreement, including any misrepresentation, covenant, or warranty made by Client; or (b) any claim, action, investigation, or proceeding arising from or related to Client's acts, omissions, or conduct of business, whether or not directly related to Services. This indemnity includes claims or penalties resulting from violations of third-party platform policies, advertising regulations, or similar standards that result in account termination, suspension, or adverse action. The foregoing shall not apply to any claim arising solely from Agency's infringement of third-party rights in performing Services.

### **6.2 Advertising Claims Indemnity:**

Client's indemnification includes claims of false, misleading, or offensive advertising (collectively, "Subject Advertising") made by or on behalf of Client. Client indemnifies Agency even if Agency created, recommended, or paid for Subject Advertising, provided Client approved it in advance of release or publication.

### **6.3 Notice of Claim and Control of Defense:**

If any lawsuit or enforcement action is filed against Agency, written notice shall be given to Client within ten (10) business days; provided failure to give timely notice affects Agency's indemnification rights only to the extent Client demonstrates damage from such failure. Client may take control of defense and employ attorneys at Client's expense. Agency shall cooperate at Client's cost. Client shall not effect any settlement without Agency's consent unless such settlement involves only payment by Client and includes unconditional release of Agency.

#### **6.4 Definition of Agency for Indemnification:**

For purposes of this section, any reference to Agency shall include its owners, principals, officers, employees, agents, contractors, members and Affiliate(s).

#### **6.5 Limitation of Liability:**

Except for liability arising from gross negligence, willful misconduct, or breach of confidentiality, neither Party shall be liable for any consequential, incidental, or punitive damages. Agency's total aggregate liability shall not exceed the Total Service Fee (Section 8.13(i)) for the applicable Campaign Term. In the event of renewal or extension, the liability cap shall apply separately to each distinct Campaign Term based on the fees paid for that specific term.

### **7. Hold Harmless**

#### **7.1 Client Indemnity:**

Client agrees to indemnify, defend, and hold Agency, its owners, officers, employees, contractors, and agents harmless from any and all claims, suits, demands, liabilities, losses, damages, costs, or expenses (including reasonable attorney's fees and court costs) arising from: (a) Client's business operations, marketing strategies, or failure to comply with applicable laws or regulations. (b) Any lawsuit, investigation, or regulatory action against Client or its advertising practices, regardless of whether Agency provided input, assistance, or services related to the matter.

#### **7.2 Applicability and Limitations:**

This hold harmless agreement applies even if Agency is alleged to be partially responsible for the claims, provided that such responsibility does not arise from gross negligence or willful misconduct by Agency.

### **8. General Provisions**

#### **8.1 Notices and Communications:**

All notices, requests, consents, claims, demands, waivers, and other communications (each, a "Notice") shall be in writing and addressed to the parties at the addresses on the first page of this Agreement (or such other address as designated by the receiving party). Notices may be delivered by personal delivery, overnight courier (fees prepaid), email of PDF (with confirmation), or certified/registered mail (return receipt requested, postage prepaid).

A Notice is effective: (a) upon delivery (personal delivery); (b) one (1) Business Day after deposit (overnight courier); (c) twenty-four (24) hours after transmission or upon confirmation of receipt, whichever is earlier, provided no delivery failure notification (email); (d) three (3) Business Days after deposit in U.S. mail (certified/registered mail); and (e) an email copy must accompany all modes of notice for validity.

To: Prominent Marketing, LLC dba Marketing Ninjas

Address: 3900 Crown Rd SW #16709, SMB #106291, Atlanta, GA 30304

Email: support@marketingninjas.io

## **8.2 Entire Agreement:**

This Agreement, together with any documents incorporated by reference and related exhibits and schedules, constitutes the sole and entire agreement of the parties with respect to the subject matter herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral.

## **8.3 Amendments:**

This Agreement may be amended, modified, or supplemented only by a written agreement signed by each party, except as provided in Section 3.4 (Partner Category Enablement) and Section 8.17.

## **8.4 Governing Law:**

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule. The Parties agree that this governing law shall apply to the interpretation and enforcement of this Agreement in all U.S. states, territories, and jurisdictions where the Services are provided or where either Party conducts business.

## **8.5 Jurisdiction, Venue, and Costs:**

Each Party irrevocably submits to the exclusive jurisdiction and venue of the federal and state courts located in Atlanta, Georgia, in any legal suit, action, or proceeding arising out of or based upon this Agreement or Services. Any legal fees, attorney's fees, collection agency fees, court costs, or other costs incurred by Agency in collecting amounts owed under this Agreement, or in reversing or defending any chargeback or payment dispute, will be passed on to and payable by Client.

## **8.6 Waiver of Jury Trial:**

IF A DISPUTE IS NOT RESOLVED BY NEGOTIATION, THE PARTIES AGREE TO WAIVE A JURY TRIAL TO FACILITATE JUDICIAL RESOLUTION AND SAVE TIME AND EXPENSE. EACH PARTY HAS SOUGHT REVIEW OF THIS WAIVER BY ITS COUNSEL. THIS WAIVER IS IRREVOCABLE, MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND SHALL APPLY TO ANY AMENDMENTS, RENEWALS, STATEMENTS OF WORK, OR MODIFICATIONS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS WRITTEN CONSENT TO A BENCH TRIAL.

## **8.7 Dispute Resolution:**

Before initiating any formal legal proceedings or court action arising out of or relating to this Agreement, the Parties agree to first attempt in good faith to resolve the dispute through direct negotiation between authorized representatives of each Party for a period of thirty (30) days. If the dispute cannot be resolved through negotiation, the Parties

agree to participate in non-binding mediation conducted by a mutually agreed upon mediator or, if no agreement can be reached on a mediator within fifteen (15) days, a mediator selected by the American Arbitration Association. Each Party shall bear its own costs of mediation, and the Parties shall share equally the fees and expenses of the mediator. If mediation does not resolve the dispute within sixty (60) days of the mediation request, either Party may proceed with litigation in accordance with Sections 8.4, 8.5, and 8.6. This dispute resolution process does not apply to requests for injunctive relief under Sections 2.5, 2.6, and 14.5 or any other provision requiring immediate court intervention.

#### **8.8 Counterparts:**

This Agreement may be executed in multiple counterparts and by facsimile signature, each of which shall be deemed an original and all of which together shall constitute one instrument.

#### **8.9 Joint Drafting Acknowledgment:**

No Party shall be deemed the drafter. Each Party acknowledges it has had sufficient time and opportunity to have this Agreement reviewed by legal counsel, and that this Agreement will be deemed jointly prepared by the Parties. If this Agreement is ever construed by a court or arbitrator, such court or arbitrator will not construe this Agreement, or any provision, against any Party as drafter.

#### **8.10 Waivers:**

No waiver of any provision will be valid unless in a written document signed by the party against whom such waiver is sought to be enforced, nor will failure to enforce any right constitute a continuing waiver or a waiver of any other right. Notwithstanding the foregoing, if (a) a Party fails to provide written notice of an alleged violation within ninety (90) days of the alleged violation or the date on which the complaining party should reasonably have become aware of such violation, whichever is later, or (b) the alleged violation is not still in existence on the date of said notice and/or (c) the alleged violation has been ratified by the complaining party prior to said notice, such alleged violation shall be waived but only as to said specific instance and not as to all future occurrences.

#### **8.11 Force Majeure:**

Except for the obligation to pay money, no Party shall be liable or responsible to the other Party for any failure or delay in fulfilling an obligation if said failure or delay is attributable to (a) fire, flood, explosions, lightning, windstorm, earthquake, civil commotion, riot, war, terrorism, strikes, labor disturbances, product shortages, transportation difficulties, pandemics, cyber attacks, (b) governmental law, or a rule or regulation or order of any public body or official exercising or purporting to exercise authority or control concerning the operations covered hereby, or by any cause beyond the reasonable control of the Party ("Force Majeure"). The deadline for fulfilling the obligation will be extended for a period equal to that of the continuance of the Force

Majeure. The Party so affected will use commercially reasonable efforts to minimize the effect of the Force Majeure on its performance and will resume performance as soon as possible after the event ends.

#### **8.12 Severability and Blue-Pencil Provision:**

If any term, covenant, or provision is held to be invalid, illegal, or unenforceable in any respect under applicable law, such invalidity, illegality, or unenforceability shall not affect any other provision. The court or arbitrator shall have the authority to modify or “blue-pencil” any invalid or unenforceable provision to the minimum extent necessary to render it valid and enforceable, consistent with the intent of the Parties. The remaining provisions shall continue in full force and effect.

#### **8.13 Definitions:**

(a) “Business Day” means any day other than Saturday, Sunday, or federal holiday observed in the United States, calculated in Client’s local time zone.

(b) “Business Hours” means 9:00 AM to 5:00 PM in Client’s local time zone on any Business Day. When referencing “business hours” (e.g., “forty-eight (48) business hours”), such period is calculated as consecutive hours during Business Hours, excluding nights, weekends, and federal holidays.

(c) “Good Standing” means a Client or Referred Client who: (i) is current on payment obligations with no outstanding past-due invoices; (ii) is not in material breach; (iii) has not received written termination notice from Agency; and (iv) maintains active Services or successor agreement with Agency.

(d) “Agency’s Reasonable Discretion” means discretionary determinations exercised reasonably and in good faith based on Agency’s business judgment and available facts. Such discretion does not permit arbitrary decisions but allows Agency flexibility where objective standards are impractical or Agency’s expertise is necessary.

(e) “Commercially Reasonable Efforts” means efforts comparable to those commonly used by similarly situated service providers in the marketing and lead generation industry for engagements of similar scope and value, considering campaign budget, available resources, industry best practices, and specific Services contracted for. Such efforts do not require expenditure beyond agreed budgets, hiring additional personnel, extraordinary measures, or commercially impracticable actions.

(f) “Primary Referral Partner Types” means the core categories of professionals and businesses that Agency prioritizes for referral partnership outreach on Client’s behalf, including plumbers, property managers, facility managers, insurance agents, and adjusters. Client will collaborate with Agency to enable these categories as part of the standard campaign. Agency may update this list from time to time based on campaign performance and industry trends.

(g) “Secondary Referral Partner Types” means additional categories of professionals and businesses that Agency may target for referral partnership outreach, including home

service professionals, real estate agents, roofers, HVAC companies, general contractors, electricians, and other trade professionals. Client will collaborate with Agency to enable all categories that have referral opportunities within Client's market. The mix of Primary and Secondary Referral Partner Types may change based on campaign strategy and market conditions, and the consequences of declining or not responding to enablement requests are stated in Section 3.4 (Partner Category Enablement).

(h) "Incentive and Activation Strategies" means the referral incentive programs, activation tactics, scripts, follow-up sequences, and relationship-building approaches provided by Agency to help Client convert referral partner introductions into active, producing relationships. Examples include referral fee structures, co-marketing arrangements, appreciation programs, and systematic follow-up protocols. Client is responsible for ensuring any implemented strategies comply with applicable laws and regulations.

(i) "Total Service Fee" means the total Service Fees paid or payable by Client for the applicable Campaign Term under the Performance Agreement (for the Monthly Renewal Performance Agreement, the Monthly Service Fees paid or payable during the Minimum Term). [Added to resolve references in Sections 6.5 and 15.2(d); confirm intended meaning.]

(j) "Measurement Period," "Cure Period," "Minimum Term," "Campaign Term," "End Date," and "Service Fee" have the meanings given in the Performance Agreement and Section 3.3.

#### **8.14 Payment Timeline and Cure Periods:**

For clarity, the payment timeline and cure periods referenced throughout this Agreement operate as follows:

**(a) Regular Scheduled Payments:**

- Day 0: Payment due (invoice date or scheduled payment date).
- Day 5: If still unpaid, Agency sends written notice to Client.
- Day 15: Client must remit full outstanding balance by this date. If still unpaid after notice, Agency may terminate for cause. Reinstatement requires Agency approval, full payment, and a \$500 reinstatement fee.

**(b) Failed or Returned Payments:**

- Day 0: Date of failed payment transaction.
- Day 5: If still unpaid, Agency sends written notice to Client.
- Day 15: Client must remit full outstanding balance by this date. If still unpaid after notice, Agency may suspend or terminate Services. Reinstatement requires Agency approval, full payment, and a \$500 reinstatement fee.

(c) Interaction with Guarantee Pause: A pause under Section 5.2 or Section 3.4 does not defer any payment. Appointments booked by Agency during any pause continue to count toward the guaranteed minimum.

### **8.15 Assignment:**

Neither Party may assign, transfer, delegate, or otherwise dispose of this Agreement or any rights or obligations hereunder, whether voluntarily or by operation of law, without the other Party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Agency may assign this Agreement without Client's consent to any successor entity in connection with a merger, acquisition, reorganization, or sale of substantially all of Agency's assets or business operations. Any attempted assignment in violation of this Section shall be void and of no effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

### **8.16 No Third-Party Beneficiaries:**

This Agreement is for the sole benefit of the Parties and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, is intended to or shall confer upon any other person or entity (including but not limited to Agency Personnel, third-party list providers, platform providers, referral partners, or any other third party mentioned herein) any legal or equitable right, benefit, claim, or remedy of any nature whatsoever under or by reason of this Agreement. No third party shall have standing to enforce any provision of this Agreement.

### **8.17 Amendments to Terms of Service:**

Agency may modify these Terms of Service at any time by posting the revised terms on Agency's website and sending written notice to Client's email address on file at least thirty (30) days before the changes take effect. The notice shall summarize the material changes and provide a link to the full revised terms. Client's continued use of Services after the effective date of any modification constitutes acceptance of the modified terms. If Client does not agree to the modified terms, Client must notify Agency in writing before the effective date and may terminate this Agreement pursuant to Section 4.1; however, all payment obligations for Services rendered remain due. This Section does not permit modification of the Performance Agreement, guaranteed Appointment minimums, Campaign Term, or Total Service Fee without Client's express written consent, except for guaranteed minimum adjustments under Section 3.4 (Partner Category Enablement).

## **9. Cybersecurity and Data Protection**

### **9.1 Client Responsibility for Data Security:**

Client is responsible for maintaining security of their systems, networks, and data (passwords, access credentials, sensitive information). Agency shall not be liable for unauthorized access, hacking, cyber attacks, or any loss, damage, or disruption caused by cybersecurity incidents affecting Client's or Agency's systems, including data breaches and malware. Client indemnifies Agency from claims arising from such incidents, except to the extent caused by Agency's gross negligence or willful misconduct.

## **9.2 Agency's Cybersecurity Measures:**

Agency shall implement commercially reasonable security measures to protect its systems and data but does not guarantee such measures will prevent all security breaches. Agency will notify Client within seventy-two (72) hours of discovering a cybersecurity incident that materially affects Client data and take reasonable steps to mitigate impact.

## **9.3 Data Privacy Law Compliance:**

Agency will use commercially reasonable efforts to handle Client data and prospective partner data under applicable data privacy laws (CCPA, GDPR if applicable, state privacy statutes). Client acknowledges: (a) Client is the data controller, ultimately responsible for ensuring data collection and processing comply with privacy laws; (b) Agency acts as service provider/processor and relies on Client's representations of lawful basis to process and share contact data; (c) Agency makes no guarantee its systems meet all requirements of every jurisdiction's privacy laws; and (d) Client is responsible for privacy notices, obtaining consents, and honoring data subject rights (access, deletion) under applicable laws. Client shall indemnify Agency from claims arising from Client's failure to comply with data privacy laws (improper data collection, lack of privacy notices, failure to honor consumer rights requests).

# **10. Client Testimonial Agreement**

## **10.1 Testimonial Participation Commitment:**

If Agency successfully generates the minimum number of Appointments during the Campaign Term, Client may be invited to participate in a brief video testimonial interview. Participation is voluntary and appreciated but not required.

## **10.2 Content and Use of Testimonial:**

The testimonial will focus on measurable results and Client's overall experience working with Agency. With Client's permission, Agency may use the testimonial, in part or in full, for marketing, promotional, and case study purposes across various media, including websites, social media platforms, print materials, and other marketing channels.

## **10.3 Prohibition Against False Claims:**

Client acknowledges that Agency has a legitimate interest in protecting its business reputation and goodwill. Client agrees not to make any false, defamatory, or misleading statements, whether publicly or privately, regarding Agency, its Services, or its employees. For purposes of this Section, a statement shall be considered defamatory if it contains assertions that are stated as fact but knowingly false or made with reckless disregard for their truth, or if it is presented as fact but lacks any reasonable factual basis. Expressions of personal opinion or fair, fact-based feedback made in good faith shall not be deemed defamatory. (a) If Client has concerns or disputes related to Services provided by Agency, Client agrees to address such concerns directly and privately with

Agency in good faith before making any public statements. (b) Agency reserves the right to pursue legal action, including claims for damages, against any party that disseminates false, misleading, or defamatory statements about Agency, its Services, or its personnel. (c) In the event of legal action arising from a breach of this Section, and if Agency prevails, Client shall be responsible for all associated legal costs, including attorney's fees, incurred in enforcing this provision.

## **11. Exclusive Service Commitment**

### **11.1 Territory Exclusivity:**

Agency will assign Client a territory within the Service Area, defined by the estimated population stated in the Performance Agreement. For as long as Client's campaign remains active, Agency will not work with another client offering Client's core service, as specified by the Primary Industry stated in the Performance Agreement, inside that territory. Referral partners may work with several types of service providers, which does not affect exclusivity. Agency may engage clients in other industries. This commitment concerns Agency's client acceptance practices and does not restrict Client from engaging other marketing agencies, service providers, or vendors. Client retains full freedom to contract with other parties for any services. If additional territories are available, Client may have the option to purchase them for an additional fee.

### **11.2 Verification of Population:**

Territory population is the estimate stated in the Performance Agreement, determined using the most recent publicly available census or governmental data at execution.

### **11.3 Termination and Release of Exclusivity:**

Exclusivity ends when the campaign ends by termination, cancellation, or expiration. Exclusivity is also released: (a) if a pause exceeds the initial pause period stated in the Performance Agreement (30 days for the Monthly Renewal and 6-Month agreements; 14 days for the 2-Month agreement) and the territory hold fee is not paid; or (b) if the campaign has not resumed by the end of a paid hold period (60 additional days for the Monthly Renewal and 6-Month agreements; 30 additional days for the 2-Month agreement). Restarting a paused campaign requires that the territory is still available and payment of the \$500 reinstatement fee. If the territory is no longer available, Agency will work with Client to identify an alternative territory or may terminate under Section 4.

### **11.4 Adjustment of Territory:**

If Client's Service Area is altered due to Client expansion, reorganization, or other changes, Client must notify Agency in writing. Agency may refuse adjustments that would materially alter an active campaign (new contact lists, reconfigured outreach, territory already assigned to another client). If approved, additional service fees may apply for list development and campaign modifications.

**11.5 Breach of Exclusivity:**

Agency shall not be liable for perceived breaches due to population growth, boundary changes, or data inaccuracies beyond its control. Agency will use commercially reasonable efforts to honor exclusivity based on the territory and Primary Industry stated in the Performance Agreement at execution.

**11.6 First Right of Refusal:**

Client has first right of refusal for additional services offered by Agency within their territory and Primary Industry. Client has five (5) business days from written notice to accept or decline. If Client does not accept in writing within this period, Agency may offer such services to another client.

**11.7 Determination of Overlap:**

Agency determines, in its Reasonable Discretion, whether another service provider offers the same core service as Client's Primary Industry for purposes of this Section 11.

**11.8 Referral Partner Relationship Ownership:**

During the Campaign Term and for thirty (30) days following termination or expiration (the "Protection Period"), all referral partner relationships, introductions, and Appointments generated by Agency are the exclusive property of Client for Client's Primary Industry within the designated Service Area. "Client-Specific Relationship Data" means all information obtained through or relating to introductions made on Client's behalf, including contact preferences, meeting notes, follow-up history, and relationship status. Agency shall not: (a) introduce the same referral partner to a competing client in Client's Primary Industry and Service Area during the Protection Period; or (b) use Client-Specific Relationship Data to benefit competing clients during the Protection Period. Upon completion of the full Campaign Term in good standing (no early termination, no payment defaults, no material breach), Agency shall provide Client with contact records limited to referral partners who had confirmed Appointments during the Campaign Term, within fourteen (14) days of Client's written request. Clients who terminate early or are terminated for cause are not entitled to contact record exports. Client retains ownership of referral partner relationships established during the Campaign Term; Agency retains ownership of its contact databases (excluding Client-Specific Relationship Data), outreach methodologies, and proprietary systems. This Section does not restrict Agency from contacting referral partners on behalf of clients in different Primary Industries or Service Areas.

## **12. Continued Access to Lead Engine Software**

**12.1 Access After Termination:**

Upon termination, Lead Engine access may be suspended or transitioned to a separate software subscription if Client chooses to continue using it, on the terms in Section 12.2.

### **12.2 Paid Access and Renewal:**

If Client elects to continue using the Lead Engine software, Client may do so for a recurring monthly fee of ninety-seven U.S. dollars (US \$97), normally billed at four-hundred ninety-seven U.S. dollars (US \$497). This fee does not increase for one (1) year and automatically renews on a month-to-month basis thereafter until canceled by Client.

### **12.3 Notice to Continue Service:**

To avoid disruption in access after termination, Client must notify Agency of its intent to continue. Upon such notice, Agency will provide access under the subscription terms.

### **12.4 Terms of Use and Suspension:**

Client's use of the Lead Engine software remains subject to all terms of this Agreement. If Client fails to make timely payment of the monthly fee, Agency may suspend or terminate Client's access without liability.

## **13. Referral Program Terms**

### **13.1 Referral Incentive:**

Agency pays Client a one-time referral fee of five hundred dollars (US \$500) (the "Referral Fee") for each new customer referred by Client (a "Referred Client") who executes a valid Client Service Agreement with Agency, successfully completes onboarding, and makes the initial payment required under such agreement. The Referral Fee may be applied as a credit toward Client's current or future services or, if requested in writing, paid directly to Client.

### **13.2 Eligibility Requirements:**

To qualify for a Referral Fee, Client must be a current, paying customer of Agency in good standing at the time the Referred Client signs an agreement and at the time any Referral Fee becomes payable. The referral must be the direct result of Client's introduction and not previously known to or under active discussion with Agency. Only one Referral Fee is paid per Referred Client. Referral claims must be submitted in writing within 30 days of the referred client's contract execution. Agency determines eligibility and verification of all referrals at its reasonable discretion.

### **13.3 Payment Schedule:**

Referral Fees are issued or credited on a monthly basis following verification that both Client and the Referred Client remain active and in good standing with Agency. Agency reserves the right to withhold or offset Referral Fees for accounts in arrears or subject to dispute.

### **13.4 Termination of Referral Eligibility:**

If either Client or the Referred Client terminates or suspends services, or ceases to remain in good standing before payment of the Referral Fee, no Referral Fee is owed or credited. The Referral Program may be modified, suspended, or terminated by Agency at

any time upon written notice, and any referrals made prior to such termination are honored in accordance with the terms in effect at the time of referral.

## **14. Non-Solicitation and Non-Recruitment of Agency Personnel**

### **14.1 Prohibition and Definition of Solicitation:**

During the term and for twenty-four (24) months following expiration or termination, Client shall not, directly or indirectly, solicit, induce, recruit, or encourage any employee, contractor, consultant, or representative of Agency (collectively, “Agency Personnel”) to terminate their relationship with Agency or become employed by Client or any business owned, controlled, or affiliated with Client, without Agency’s prior written consent.

Indirect solicitation includes: (a) engaging third parties, recruiters, or affiliates to approach Agency Personnel; (b) offering employment, consulting, or freelance arrangements through social media, professional networks, or referrals; or (c) knowingly permitting third parties under Client’s control to engage in such activities.

### **14.2 Liquidated Damages:**

Agency Personnel are critical to Agency’s proprietary systems, client relationships, and confidential processes. Actual damages from violation would be extremely difficult to determine. If Client breaches this Section, Client shall pay Agency liquidated damages of fifty thousand U.S. dollars (US \$50,000) per each affected Agency Personnel, which the Parties agree represents a fair and reasonable pre-estimate of harm and is not a penalty.

### **14.3 Extension of Restrictive Period:**

If a violation occurs, the twenty-four (24) month restriction automatically extends for an additional twenty-four (24) months from the date Client ceases the prohibited conduct.

### **14.4 Exceptions:**

This Section does not prohibit hiring any person who, without prior solicitation by Client, has (a) responded to a general advertisement not specifically directed at Agency Personnel, and (b) has not been employed by Agency within the previous twelve (12) months.

### **14.5 Injunctive Relief:**

Client acknowledges breach would cause immediate and irreparable harm for which monetary damages alone would be inadequate. Agency may seek injunctive relief, in addition to other remedies, without posting a bond.

## **15. TCPA, DNC, and Communications Compliance**

### **15.1 Contact Sourcing and Third-Party List Providers:**

(a) Agency Use of Third-Party List Providers: Agency may utilize third-party data providers, list brokers, or contact sourcing services. Client acknowledges: (i) Agency does

not independently verify DNC compliance status of every contact from third-party vendors; (ii) Agency will use commercially reasonable efforts to select reputable providers and request DNC-scrubbed lists; (iii) Agency will honor opt-out requests and maintain internal do-not-call lists; (iv) some contacts may be on DNC registries or lack proper consent; and (v) Client accepts inherent compliance risks of using third-party-sourced business contact lists for B2B outreach.

(b) Client Acknowledgment of B2B Outreach Risks: Client acknowledges B2B outreach (forming referral partnerships) carries regulatory compliance risks under TCPA, DNC, and state telemarketing laws. While Agency will use commercially reasonable efforts to minimize risks, Client accepts: (i) no guarantee all contacts provided prior express consent; (ii) databases may contain errors or improperly categorized contacts; (iii) regulatory interpretations continue to evolve; and (iv) Client voluntarily assumes compliance risks by approving campaigns.

(c) Agency's Reasonable Efforts and Vendor Warranties: Agency will: (i) select third-party providers representing they provide DNC-compliant, business-focused contact data; (ii) request providers scrub lists against National and state DNC registries; (iii) pass through vendor warranties, representations, or indemnifications to Client; (iv) honor opt-out requests within 24-48 hours; (v) include required opt-out mechanisms and caller identification; and (vi) target business contacts for B2B purposes where TCPA restrictions are less stringent. Agency makes no warranty that providers fully complied with DNC scrubbing or that contacts provided prior express consent. Agency's obligation is limited to commercially reasonable efforts to select reputable vendors and conduct compliant outreach.

(d) Client-Provided Contacts: For contact data provided directly by Client, Client represents: (i) Client obtained all necessary TCPA consents; (ii) contacts provided legally sufficient consent for Agency communications; (iii) Client maintains adequate consent records; and (iv) contacts are not on DNC registries or Client obtained overriding consent.

## **15.2 Shared Indemnification for TCPA/DNC/CAN-SPAM Violations:**

(a) Client Indemnification of Agency: Client shall indemnify Agency from claims arising from: (i) Client-provided contact data lacking proper consent; (ii) Client's direction to contact individuals knowing they lacked consent or were on DNC registries; (iii) Client's approval of strategies, scripts, or messaging Client knew or should have known violated regulations; (iv) Client's failure to disclose known compliance issues; or (v) Client's business practices unrelated to Agency's contact sourcing or outreach.

(b) Agency Indemnification of Client (Limited to Agency Conduct): Agency shall indemnify Client from claims arising from: (i) Agency's use of unlawful calling practices, prohibited autodialers, or non-compliant outreach methods not approved by Client; (ii) Agency's failure to honor opt-out requests or maintain do-not-call lists; (iii) Agency's gross negligence or willful misconduct; or (iv) Agency's failure to use commercially reasonable efforts to select reputable list providers.

(c) Third-Party List Provider Issues - Shared Risk: For claims from Agency's third-party vendor lists (not Client-provided contacts), where Agency exercised commercially reasonable care in vendor selection and vendor represented lists were DNC-compliant: (i) Client acknowledges such claims represent inherent business risk Client voluntarily accepted; (ii) Agency will pursue indemnification from the vendor; (iii) Agency shall pass through indemnification or insurance proceeds to Client; and (iv) neither Party shall be liable to the other for vendor failures, provided Agency used reasonable care and Client approved the campaign.

(d) Limitation of Mutual Liability: Notwithstanding any other provision, neither Party's total indemnification liability under this Section 15 shall exceed three times (3x) the Total Service Fee (Section 8.13(i)) paid under this Agreement, except for violations arising from gross negligence or willful misconduct, which shall remain unlimited.

### **15.3 CAN-SPAM Compliance for Email Outreach:**

Agency will use commercially reasonable efforts to comply with CAN-SPAM Act requirements for cold email outreach, including: (a) accurate header information and subject lines that are not deceptive or misleading; (b) clear identification that the message is an advertisement or solicitation where required; (c) inclusion of Client's valid physical postal address; (d) functional opt-out mechanism in each email; and (e) honoring opt-out requests within ten (10) business days. Client acknowledges: (i) Agency sends emails on Client's behalf and Client is jointly responsible for CAN-SPAM compliance; (ii) Client must provide accurate business information for inclusion in emails; (iii) Client shall not direct Agency to send emails with false or misleading content; and (iv) Client is responsible for ensuring any Client-provided email lists were not obtained through address harvesting or purchasing from sources that used prohibited collection methods.

### **15.4 Call Recording Disclosure and Consent:**

Agency may record telephone calls with prospective referral partners for quality assurance, training, verification, and compliance purposes. Client acknowledges and consents to such recordings. Agency will comply with applicable call recording laws, including providing disclosure to call recipients in jurisdictions requiring one-party or two-party consent. Client acknowledges: (a) some states (including California, Florida, and others) require all-party consent to record calls; (b) Agency will use commercially reasonable efforts to provide appropriate disclosures but does not guarantee compliance with every jurisdiction's recording laws; (c) if Client directs Agency to disable recording disclosures or recording functionality, Client assumes all liability for any resulting violations; and (d) all call recordings are Agency's property and may be retained, used, or deleted at Agency's discretion. Agency may provide call recordings to Client upon reasonable request for verification purposes.

### **15.5 State-Specific Telemarketing Registration:**

Certain states require telemarketing registration or licensing for businesses conducting or receiving telemarketing calls. Client is solely responsible for determining whether Client's business requires state telemarketing registration and for obtaining and maintaining any required registrations or licenses. Agency makes no representation regarding Client's registration obligations and shall not be liable for Client's failure to comply with state registration requirements.

### **15.6 No Guarantee of Compliance; Legal Counsel Requirement:**

Neither Party guarantees full compliance with TCPA, DNC, CAN-SPAM, or telecommunications regulations. Both Parties acknowledge: (a) regulatory interpretations continue to evolve (B2B communications, autodialer definitions, consent requirements); (b) databases may contain errors or non-compliant data; (c) Parties should consult legal counsel specializing in telecommunications law before initiating campaigns; and (d) "commercially reasonable efforts" represents best-efforts compliance, not zero regulatory risk guarantee. Agency is not responsible for auditing vendor compliance systems or providing TCPA legal advice. Client acknowledges approving campaigns involves accepting regulatory compliance risks inherent to marketing activities.

## **16. Third-Party Platform and Advertising Account Risk**

### **16.1 Platform Policy Compliance and Account Risk:**

Agency may utilize third-party advertising and communication platforms (Facebook, Google Ads, LinkedIn, email providers, SMS platforms, other digital marketing tools). Client acknowledges: (a) platforms have their own policies, terms, standards, and guidelines that may change without notice and are outside Agency's control; (b) accounts, pages, or channels may be suspended, restricted, disabled, or terminated for policy violations, algorithm changes, false positives, or other factors outside Agency's control; (c) restrictions may occur even when Agency uses commercially reasonable efforts to comply; (d) Agency makes no guarantee accounts will remain active or in good standing; and (e) platform actions may occur without warning, appeal rights may be limited, and reinstatement is not guaranteed.

### **16.2 Client Responsibility for Platform Compliance:**

Client is solely responsible for ensuring: (a) advertising content, business practices, products, and services comply with platform policies, standards, and guidelines; (b) Client's business model, industry, and offerings are permissible under platform policies; (c) landing pages, websites, or URLs comply with platform requirements and laws; (d) Client's brand, trademarks, and reputation do not violate third-party rights or platform policies; and (e) Client promptly responds to platform inquiries, verification requests, or compliance issues.

**16.3 Limitation of Agency Liability for Platform Actions:**

Agency shall not be liable for losses, damages, costs, or consequences from platform actions, including: (a) account suspensions, restrictions, or terminations; (b) ad disapprovals, campaign interruptions, or policy violations; (c) loss of advertising spend, wasted budget, or non-refundable fees; (d) performance degradation due to algorithm changes; (e) loss of account access, pages, followers, or data; (f) inability to appeal or reinstate accounts; or (g) reputational harm or business interruption. Client waives claims against Agency for losses from platform decisions, even if based on campaigns, content, or strategies created or recommended by Agency, provided Agency used commercially reasonable efforts to comply with known platform policies at campaign execution.

**16.4 No Guarantee of Platform Performance:**

Agency makes no guarantee regarding platform algorithm performance, ad delivery, reach, engagement rates, or return on advertising spend. Performance is subject to factors outside Agency's control (algorithm changes, competition, seasonal variations, technical issues, user behavior changes).