

TERMS & CONDITIONS

WHEREAS Kate Emms o/a 3Sixty Marketing Solutions ("**3Sixty Marketing**") has agreed to provide digital marketing services (the "**Services**") to me (the "**Client**") as set out in the attached invoice or in any additional invoices for future Services (the "**Invoice**") on the following terms (the "**Terms & Conditions**");

Now therefore, by signing the Invoice for the Services, I agree to the following terms:

1. THE AGREEMENT

- a) The Invoice shall constitute an offer by 3Sixty Marketing Solutions to provide the Services to the Client as set out in the Invoice. This offer shall be open for acceptance for 30 days after delivery.
- b) The Invoice, once signed by the Client, shall be a binding agreement between the Client and 3Sixty Marketing for 3Sixty Marketing to provide the Services set out in the Invoice at the price set out in the Invoice (the "**Service Price**") and in accordance with the Terms & Conditions.
- c) The Invoice and these Terms & Conditions constitute the entire agreement between the parties (the "**Agreement**") and supersede any communications or previous agreements with respect to the subject matter of this Agreement.

2. 3SIXTY MARKETING OBLIGATIONS

- a) 3Sixty Marketing shall provide the Services to the Client for the Service Price using reasonable care and skill. The Services are provided "as is" and 3Sixty Marketing disclaims, and the Client waives, any warranties, express or implied, as to the merchantability, fitness for a particular use or purpose, or any other warranty, guarantee or representation related to the Services.
- b) 3Sixty Marketing will not be responsible for work that is beyond the scope of Services set forth in the Invoice. Any changes to the scope of Services will not be effective unless approved by both parties. 3Sixty Marketing shall have the right to make any changes to the Services which are necessary to comply with any applicable law.
- c) 3Sixty Marketing shall use reasonable efforts to meet any performance dates set out in the Invoice but any such dates shall be estimates only. 3Sixty Marketing shall not be liable for any delay in delivery of the Services caused by an event beyond the reasonable control of the Client and 3Sixty Marketing or the Client's failure to provide 3Sixty Marketing with adequate instructions for the supply of the Services.
- d) 3Sixty Marketing shall be entitled to subcontract in whole or in part the provision of Services to the Client provided that 3Sixty Marketing shall remain liable to the Client for the performance of the Services as if it had carried them out itself.

3. CLIENT OBLIGATIONS

- a) The Client shall provide technical information to 3Sixty Marketing in sufficient time as is reasonably required by 3Sixty Marketing to facilitate the provision of Services in accordance with any performance dates set out in the Invoice. The Client shall be solely responsible for ensuring the accuracy of all information provided to 3Sixty Marketing by the Client or its employees or agents.
- b) The Client shall, as quickly as possible, comment on and or approve materials provided as part of the Services and shall, quickly as possible, implement any changes on websites or IT systems where it may be required by 3Sixty Marketing.
- c) The Client shall inform 3Sixty Marketing immediately of changes of domain names, passwords, and any other information regarding the technical infrastructure which may affect the delivery of the Services.

- (d) 3Sixty Marketing requires that prior notice be given for any alterations relating to the Client's social media profiles(s) or websites that may affect the Services supplied by 3Sixty Marketing. If alterations are made by the Client or a third party to the Client's profile or website, and performance and/or brand integrity may be affected, 3Sixty Marketing cannot be held responsible.
- (e) The Client acknowledges that it is fully responsible for understanding and ensuring the provision of the Services comply with any regulatory, legal or contractual obligation related to the Client's business.

4. PRICES & PAYMENT TERMS

- a) Unless otherwise expressly stated, the Service Price shall be in Canadian dollars and exclusive of HST.
- b) The Client acknowledges that certain Services may involve the licensing of third party intellectual property rights and that the Client may be required to enter into a licence directly with such third party. The Service Price is exclusive of the costs for the acquisition of said intellectual property rights.
- c) 3Sixty Marketing shall invoice for Services monthly on the 30th day of each month, with the first month's payment being paid upfront. The Client shall pay each invoice submitted by 3Sixty Marketing within 30 days of delivery of the invoice to the Client. The Client shall pay all amounts due under the Invoice in full without any deduction except as required by law and the Client shall not be entitled to assert any credit, or set-off against 3Sixty Marketing in order to justify withholding payment of any such amount it owes 3Sixty Marketing.
- d) In the event of overdue payment, interest shall accrue on all invoices at the amount 1.5% per month, calculated daily. 3Sixty Marketing reserves the right to bring any legal action it considers appropriate to recover any unpaid sums. Late payment shall be considered a material breach of the Agreement entitling 3Sixty Marketing (at its discretion) to cancel or affirm the Agreement and assert any remedies for breach. Any arrears over ninety days may be referred to a collections agency for collection.
- e) In the event that the Services cannot be delivered either in full or in part due to the Client's failure to assist or delay in assisting in the provision of the Services, 3Sixty Marketing shall be entitled to charge to the Client the amount that would have been due had the Services been rendered.

5. LIMITATION OF LIABILITY

- a) The Client agrees that neither 3Sixty Marketing nor any of its affiliates shall be liable for any costs, or for any direct, indirect, special, or consequential damages, or losses arising out of or associated with its provision of Services to the Client or for any claim made against the Client by any third party.
- b) 3Sixty Marketing shall not be liable for downtimes, interference in the form of hacking, virus, disruptions, faulty third-party software, search engines or websites on which a Service is dependent. 3Sixty Marketing shall use its reasonable efforts to assist in remedial efforts if so requested by the Client. Any work connected with remedial efforts as described above shall be charged to the Client separately in accordance with 3Sixty Marketing's price list applicable from time to time.
- c) 3Sixty Marketing shall not be liable for any changes made without notice by the Client or a third party employed by the Client to domain names, content, links, technical setup etc. affecting the Services delivered by 3Sixty Marketing. Preceding or subsequent work connected with any adjustments required as a result of such changes shall be charged to the Client on the basis of the 3Sixty Marketing's price list applicable from time to time.
- d) 3Sixty Marketing shall use all reasonable endeavours to deliver Services relating to social media marketing, content sharing, blogging and user engagement in accordance with the guidelines applicable to the relevant websites and social media platforms. However, 3Sixty Marketing shall not be liable for delays or deteriorating performance due to changes made to standard terms, algorithms, account

functionality, account availability, search results, viewing policy, prices or other matters beyond 3Sixty Marketing's control and reserves the right to make changes to Services as a result of the same. In addition, the Company shall not be liable for other changes or discontinuation of social media platforms' services or third party services.

- e) 3Sixty Marketing shall not be liable for the provision of Services that do not lead to the Client's desired volume of traffic, number of clicks, likes, follows, registrations, purchases or the like. If the Client does not implement some or all of 3Sixty Marketing's recommendations, 3Sixty Marketing shall not bear any liability for any lack of success experienced by the Client relating to the services. 3Sixty Marketing shall not be responsible for profiles or their content streams dropped or excluded by a search engine or social media site for any reason.
- f) To the extent that such liability is not excluded by this Section 5, 3Sixty Marketing's total liability (whether in contract, tort (including negligence), or otherwise) under or in connection with the Agreement or based on any claim for indemnity or contribution or otherwise will not in any event exceed the total sum invoiced for the Services.
- g) This section 5 shall survive the termination of this Agreement.

6. INTELLECTUAL PROPERTY RIGHTS

- a) It is the responsibility of the Client to ensure that they have the right to use any intellectual property when they provide any text, image or representation ("Materials") to 3Sixty Marketing for incorporation into the Services and the Client hereby grants or agrees to procure the grant of (as applicable) an irrevocable licence to 3Sixty Marketing to use such Materials for the purposes of providing the Services for the duration of the Agreement.
- b) The Client shall be responsible for ensuring that the Materials are not in contravention of legislation, professional rules of conduct, decency, marketing rules or any other third-party rights. 3Sixty Marketing shall be entitled to reject and delete such material without incurring any liability.
- c) Unless expressly stated otherwise in this Agreement, the intellectual property rights created, developed, or used in connection with the Services and whether in existence at the date hereof or created in the future shall be the property of 3Sixty Marketing or the relevant third party from whom 3Sixty Marketing has acquired a right of use with a view to providing the Services. The Client agrees to execute and deliver such documents and perform such acts as may be necessary from time to time to ensure such intellectual property rights rest in 3Sixty Marketing. These intellectual property rights shall not be used, assigned, distributed, copied, forwarded to online or offline activities by the Client without a separate, express written agreement.
- d) If 3Sixty Marketing makes software subscriptions, processes or content available to the Client as part of the provision of the Services, the Client shall only acquire a non-exclusive personal non-transferable license to use such material until the Services under this Agreement cease.
- e) The Client hereby irrevocably licenses 3Sixty Marketing to use and display the Client's name, logo etc. as a reference on 3Sixty Marketing's website, other marketing materials or types of media while they are a Client of 3Sixty Marketing and for 18 months after the Agreement is terminated. The Client agrees to send 3Sixty Marketing its most recent logo as and when it is amended from time to time.

7. CONFIDENTIALITY

- a) A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, processes, etc. which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products and services

which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Agreement, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality. This Section 7 shall survive termination of this Agreement for any reason.

- b) During the term of the Agreement and for a period ending 5 years from the date of its conclusion, 3Sixty Marketing shall take the same care as 3Sixty Marketing uses with its own confidential information, to avoid, without the Client's consent, the disclosure to any third party (except a subcontractor working on the Services who is subject to similar undertakings of confidentiality) of any of the Client's business or operational information which the Client has designated as confidential. This obligation shall not apply to any information which is or becomes publicly available otherwise than through a breach of this agreement, is already or comes into 3Sixty Marketing's possession without an accompanying obligation of confidence, is independently developed by 3Sixty Marketing, or which 3Sixty Marketing is required to disclose by law.
- c) During the term of the Agreement and for a period ending 5 years from termination thereof, the Client will not disclose to any persons within its organization that do not have a need to know, or to any third party, any information and non-Client materials provided by 3Sixty Marketing concerning the method or approach 3Sixty Marketing uses in providing the Services.

8. INDEMNIFICATION

The Client shall indemnify and keep 3Sixty Marketing fully indemnified against all liabilities, costs and expenses whatsoever and howsoever incurred by 3Sixty Marketing in respect of any third parties as a result of the provision of the Services in accordance with this Agreement or the content of the Client's advertising or web pages which result in claims or proceedings against 3Sixty Marketing for infringement of any intellectual property rights or other proprietary rights of third parties, or for breach of confidentiality or contract or for defamation or slander. This section 8 shall survive the termination of this Agreement for any reason.

9. TERM AND TERMINATION

- a) **Term.** The Agreement shall renew automatically for a further term at the end of each completed subscription term for monthly or annual Services unless and until either party notifies the other of its wish to terminate the Agreement at the expiry of the current subscription term by giving the other party at least 30 days' written notice. Services will continue to be provided until such time as the existing service subscription has been provided in full to the Client. Any Services which are to be provided for a minimum term cannot be terminated until the term has been completed.
- b) **Immediate Termination.** Notwithstanding the foregoing, 3Sixty Marketing shall reserve the right to terminate this Agreement immediately, in its sole discretion, without prior notice to the Client, and without compensation if:
 - i. the Client commits a material breach of the Agreement and (if such breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach by 3Sixty Marketing; or
 - ii. the Client becomes or is insolvent or is unable to pay its debts (within the meaning of the Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3) or a petition is presented or meeting convened or resolution passed for winding up the Client or the Client enters into liquidation whether compulsorily or voluntarily or has a receiver, or administrator appointed over all or any part of its assets or the defaulting party ceases to carry on all or a substantial part of its business.
- b) Upon termination, the parties shall be obliged to return all materials received from the other pursuant to the Agreement without undue delay and the Client shall cease to use any content, subscriptions, or processes provided during the provision of the Services. If the Client fails to do so, 3Sixty Marketing

shall be entitled to invoice the Client in line with its then current price list for subsequent Services without such invoicing amounting to a waiver of 3Sixty Marketing's right to terminate the Agreement.

- c) The Client acknowledges that any domain names, website hosting or other third party service must be terminated directly with said third party service provider in accordance with their termination provisions and 3Sixty Marketing shall not be responsible for any refund in respect of same.
- d) The Client shall not be permitted to assign or transfer all or any part of its rights or obligations under the Agreement without the prior written consent of 3Sixty Marketing. 3Sixty Marketing shall be entitled to assign or subcontract any of its rights or obligations under the Agreement.

10. DISCONTINUATION OF THE SERVICES

3Sixty Marketing reserves the right to modify or discontinue, temporarily or permanently, the Services without notice to the Client and it shall not be liable to the Client for any modification to or discontinuance of these Services save for the return of any prepaid sums in connection with the provision of the Services which are subsequently not provided.

11. NON-SOLICITATION

During the term of this Agreement and for a period of 12 months thereafter, the Client agrees not to employ or engage or offer to employ or engage anyone designated by 3Sixty Marketing to work on the Services.

12. AMENDMENTS

3Sixty Marketing may from time to time make any alteration to or variation of these Terms & Conditions by publishing the revised Terms & Conditions on its website and informing the Client by e- mail that they have been modified. Continued use of the Services constitutes acceptance of the revised Terms & Conditions by the Client.

13. NO WAIVER

The waiver or failure of either party to exercise in any respect any right provided in this Agreement shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

14. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be construed and enforced according to the laws of the Province of Ontario. You expressly consent to the exclusive forum, jurisdiction, and venue of the court of Ontario, or any other judicial district or jurisdiction as 3Sixty Marketing may determine in any and all actions, disputes, or controversies relating hereto.

15. SEVERABILITY

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

16. NOTICES

Any notice required by this Agreement may be given by electronic means and shall be effective upon receipt.

17. SUCCESSORS AND ASSIGNS

All provisions of this Agreement and obligations arising hereunder shall extend to and be binding upon the parties hereto and their respective successors and assigns and shall enure to the benefit of and be enforceable by the parties hereto and their respective legal representatives, successors and assigns.