

## FB + IG Advertising Setup Services Agreement

This Marketing Services Agreement (this "Agreement"), dated as of {{order\_date}} (the "Effective Date"), is between {{billing\_company}}, located at {{billing\_address\_1}}, {{billing\_city}}, {{billing\_state}} {{billing\_postcode}} (herein known as "Client") and MARC Strategies, Inc., d.b.a. Fly Pages (herein known as "Agency") located at 8820 Ladue Road, Suite 230, St. Louis, Missouri 63124. Client and Agency are sometimes individually referred to as "Party" and collectively referred to as the "Parties."

WHEREAS, Client and Agency desire to establish a non-exclusive strategic marketing agreement whereby MARC Strategies, Inc., d.b.a. Fly Pages will promote Client's products or services. This Agreement may be modified from time to time in the form of a written instrument signed by both Parties (an "Amendment"). The terms of any Amendment executed during this Agreement will be subject to the terms of this Agreement unless otherwise stipulated in the Amendment.

1. **SCOPE OF WORK.** The Parties will undertake the activities listed in Exhibit A | Agency Scope of Work. The Parties acknowledge that their respective obligations to undertake the activities listed in Appendix A | Agency Scope of Work serve as good and valuable consideration for this Agreement. Agency shall perform the services (the "**Services**") for Client as described in a Scope of Work ("**SOW**") executed pursuant to this Agreement, which shall result in work product produced by Agency for Client (each a "**Deliverable**" and collectively the "**Deliverables**"). Each SOW executed pursuant to this Agreement shall be attached hereto as part of **Exhibit A**. From time to time, the Parties may execute additional SOWs, each of which shall be numbered chronologically, as Exhibit A-1, A-2, etc., and appended to this Agreement upon their execution. Such SOWs shall identify the Services to be performed, provide specifications, instructions, and compensation to be paid, but shall not modify any other term or condition of this Agreement, and without the need for reference shall incorporate all terms and conditions of this Agreement. In the event that there is a conflict between the SOW and this Agreement, the terms and conditions of this Agreement prevail. This is not an exclusive arrangement between the Parties.
2. **PAYMENT.** In consideration for the provision of the Services by Agency, Agency shall be paid at the rate and in the amount indicated in the SOWs. Unless otherwise provided in a SOW, Agency shall provide Client with monthly invoices detailing the service fees which Company believes are due under this Agreement. Client shall pay all invoices within fifteen (15) days of receipt. Client shall pay all invoices with by check, automated purchasing card or ACH transaction. All invoices shall be submitted to Client via email at: {{customer\_wp\_user\_email}}.
3. **TERM AND TERMINATION.** The term of this Agreement shall be six (6) months from the Effective Date unless terminated earlier pursuant to the provisions of this Agreement. Thereafter, the term will automatically renew for successive six (6) month terms without notice until terminated pursuant to the provisions of this Agreement.
  1. **Termination for Convenience.** Client or Agency may terminate this Agreement for any reason at any time after the initial Term with 30 days prior written notice without further obligation of either Party except for any outstanding payment obligations hereunder.
  2. **Effect of Termination.** Termination shall not relieve either Party of any obligations incurred prior to the termination. Upon termination, Agency agrees to (i) cease all promotions of Client's services; (ii) cease all use of Client's technology and Marks; and (iii) cease supporting Client's marketing needs and upon request, to promptly destroy or return all copies (electronic or written) of the content, technology, and any other confidential or proprietary information in Agency's possession or control. Without limiting the foregoing in any way, the Parties agree that following termination, each Party may continue to make their products/services available directly to users subscribing to the product/service prior to termination, without any liability or obligation to the other Party.
4. **OWNERSHIP RIGHTS TO DELIVERABLES, INTELLECTUAL PROPERTY AND MATERIALS.**
  1. **Intellectual Property.** Agency shall have sole ownership of Agency Intellectual Property Rights (as defined below) incorporated into any Deliverable provided to Client. Any improvements or modifications to the Intellectual Property Rights that are used, improved, modified, or developed as a result of the Services are the sole and exclusive property of Agency, and shall be assigned to



Agency. For purposes of this Agreement, "**Intellectual Property Rights**" means any and all right, title and interest (including all patent, patent registration, copyright, trademark, trade name, service mark, service name, trade secret, or other proprietary right arising or enforceable under any United States federal or state law, rule or regulation, non-United States law, rule or regulation or international treaty) in any technology, system, invention, medium, or content, including print, pictures, photographs, video, marks, logos, designs, drawings, artistic and graphical works, music, speech, computer software and documentation, any other works of authorship and any form, method or manner of expression or communication.

2. **Licenses.** Subject to the terms and conditions of this Agreement, including Customer's payment obligations in Section 2, Company hereby grants to Customer a world-wide, fully-paid, royalty-free exclusive, irrevocable, and perpetual license to use the Deliverables solely as agreed upon by the Parties in the applicable SOW or other written agreement (the "**License**"). Other than the License, nothing in this Agreement shall be deemed to grant Customer any express or implied license for any reason. In addition, Client grants to Agency a non-exclusive, non-transferable, royalty-free license to use Client's pre-existing trade names, trademarks, logos and service marks (collectively Marks) in connection with the performance of this Agreement. Agency shall not use any of Client's Marks for any purpose outside of the Agency Scope of Work without first obtaining the prior written advance consent of Client. Agency agrees that it shall cease using Client's Marks immediately upon request, and in no event shall this license survive the term of this Agreement.
3. **Client Information and Materials.** Client hereby grants Agency a non-exclusive, non-transferable, revocable license to use and access customer lists, Customer's hardware and software systems solely in connection with the provision of the Services during the term of this Agreement. All information and materials, including computer software, provided to Agency by Client in connection with the Services, including modifications, changes and derivatives thereto are and shall remain the property of Client or its licensors, whom shall retain all intellectual property rights therein.

#### 5. **WARRANTIES; DISCLAIMER.**

1. **Warranties.** Each Party represents and warrants to the other that:
  1. it has the full corporate right and authority to enter into this Agreement and to perform the acts required of it hereunder;
  2. the execution of this Agreement by such Party and the performance by such Party of its obligations and duties hereunder do not and shall not violate any other Agreement to which such Party is a Party or by which it is otherwise bound;
  3. performance under this Agreement shall be conducted with due diligence and in full compliance with the professional standards for the party's industry. Parties shall comply with all applicable laws, rules and regulations in the course of performing their respective business and services;
  4. when executed and delivered by such Party, this Agreement shall constitute the legal, valid and binding obligation of such Party, enforceable against such Party according to its terms;
  5. such Party acknowledges that the other Party makes no representations, warranties or Agreements related to the subject matter hereof that are not expressly specified in this Agreement.
2. **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES AND EACH PARTY HEREBY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND SERVICES CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

#### 6. **INDEMNIFICATION.**

1. **Client's Duty to Indemnify.** Client will indemnify, defend, and hold MARC Strategies, Inc., d.b.a. Fly Pages and its directors, officers, employees and agents harmless from any and all costs, expenses (including reasonable attorney's fees), losses, damages, or liabilities incurred insofar as such costs, expenses, losses, damages or liabilities are based on a claim that the Agency's services covered under this Agreement were (i) in breach of its representations and warranties contained in this agreement; and (ii) any act or omission which involved gross negligence or willful or fraudulent misconduct.
2. **Indemnification Procedures.** The indemnified Party shall provide the indemnifying Party with prompt written notice of any such claim. The indemnifying Party shall have sole control and authority with respect to the defense and settlement of any such claim. The indemnified Party



shall cooperate fully with the indemnifying Party, at the indemnifying Party's sole cost and expenses, in the defense of any such claim. The indemnifying Party shall not agree to any such claim that does not include a complete release of the indemnified Party from all liability with respect thereto or that imposes any liability, obligation or restriction on the indemnified Party without the prior written consent of the indemnified Party. The indemnified Party may participate in the defense of any claim through its own counsel, and at its own expense.

3. **Insurance.** Agency agrees to maintain errors and omissions insurance during the term of this agreement, at MARC Strategies, Inc., d.b.a. Flypages's expense having a minimum coverage of One Million Dollars (\$1,000,000) combined single limit coverage for each occurrence. Upon a written request from Client, Agency will provide Client with evidence of the required policy via certificate of insurance within thirty (30) days of contract inception.

7. **CONFIDENTIALITY.**

1. **Protection of Information.** The parties may provide each other with confidential information and trade secrets, including without limitation, information on their respective organization, business, finances, personnel, services, systems, pricing structure, proprietary products and processes, transactions and/or business relations (collectively, the "Information"). The term "Information" shall not include (i) information generally available to the public through no fault of the other Party, (ii) information which the other Party already had knowledge of, or (iii) information which has become part of the public domain through no fault of a Party. Each Party agrees to retain in confidence at all times and to require its employees, consultants, professional representatives and agents to retain in confidence all information disclosed by the other Party. Each Party shall only use the other's information solely for the purpose of performing obligations under this Agreement, and only disclose the Confidential Information on a need-to-know basis, provided that, such party shall be liable for the acts of any third party who obtains the Confidential Information from such party. Each party shall take all necessary precautions in handling the Confidential Information of the other party and limit disclosures on a strict need-to-know basis. Further, the receiving Party may disclose information to the extent ordered to be disclosed by subpoena, other legal process or requirement of law, after first giving the disclosing Party a reasonable opportunity to contest such disclosure requirement.
2. **Injunctive Relief.** Each Party acknowledges and agrees that any use or disclosure of Confidential Information by the Party in a manner inconsistent with the provisions of this Agreement may cause another Party harm which will not be compensable by monetary damages alone and, accordingly, such other Party will, in addition to other available legal or equitable remedies, be entitled to see an immediate injunction restraining the disclosing Party from committing or continuing to commit a breach. A Party may avail itself of injunctive relief in addition and without prejudice to any other remedies available to it.
3. **Survival.** This Section 8 will survive the termination or expiration of this Agreement.

8. **LIMITATION OF LIABILITY.** THE PARTIES AGREE THAT IN NO EVENT SHALL CLIENT OR MARC STRATEGIES, INC, d.b.a. FLY PAGES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE, OR OTHER INDIRECT DAMAGES OF ANY NATURE, FOR ANY REASON, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT OR ANY EXPIRATION OR TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL EITHER PARTY (I) BE LIABLE FOR LOST PROFITS OR LOST BUSINESS OPPORTUNITIES ARISING OUT OF THE TERMINATION OF THIS AGREEMENT, OR (II) BE LIABLE FOR DAMAGES OR ALLEGED DAMAGES HEREUNDER, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, THAT EXCEED THE AMOUNTS REQUIRED TO BE PAID BY EITHER PARTY TO THE OTHER HEREUNDER. THE PARTIES FURTHER AGREE THAT FOR AMOUNTS PAYABLE UNDER SECTION 7 (INDEMNIFICATION) OR SECTION 8 (CONFIDENTIALITY) HEREUNDER, EITHER PARTY'S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AGGREGATE FEES PAID BY CLIENT TO AGENCY UNDER THE SCOPE OF WORK GIVING RISE TO THE LIABILITY. THE FOREGOING NOTWITHSTANDING, AS BETWEEN THE PARTIES AND ANY PARTNER AND/OR VENDOR OF THE RESPECTIVE PARTIES, NOTHING IN THIS AGREEMENT SHALL CONFER ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE OR OTHER INDIRECT DAMAGES OF ANY NATURE FOR ANY REASON BY THE PARTIES AGAINST SUCH PARTNER AND/OR VENDOR USED BY THE PARTIES TO PROVIDE AND/OR SUPPORT THE PARTY'S RESPECTIVE PRODUCTS AND/OR SERVICES.

9. **PUBLICITY.** The Parties will cooperate to create appropriate public and promotional announcements or press releases relating to the relationship set forth in this Agreement. All public announcements by one Party which mention the other Party, but specifically excluding announcements which simply mention

one Party as a customer or strategic marketer of the other Party, shall be subject to prior review and approval, which shall not be unreasonably withheld or delayed.

10. **GENERAL PROVISIONS.**

1. **Notices.** All notices that either Party is required or may desire to serve upon the other Party shall be in writing and addressed to the Party to be served at the respective addresses set forth herein and shall be sent via U.S. Express Mail or private express courier service with confirmed receipt and will be effective upon receipt at the addresses listed herein (unless the Parties are notified in writing of a change in address, in which case notice will be sent to the new address).
2. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties with respect to the transactions contemplated, and supersedes any and all prior or contemporaneous oral or written representation, understanding, agreement or communication between the Parties concerning the subject matter hereof. Neither Party is relying upon any warranties, representations, assurances, or inducements not expressly set forth herein.
3. **Legal Fees.** Except as otherwise provided herein, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby are to be paid by the Party incurring such costs and expenses. In the event Company or Customer brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by Company, the prevailing Party is entitled to recover its attorneys' fees and expenses.
4. **Waiver.** No waiver of any provision of this Agreement or any rights or obligations of either Party hereunder shall be effective, except pursuant to a written instrument signed by the Party waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing.
5. **Force Majeure.** Neither Party shall be deemed in default hereunder, nor shall it hold the other Party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, armed conflict, labor strike, lockout, or boycott, provided that the Party relying upon this section (i) shall have given the other Party prompt written notice thereof and, in any event, within five (5) days of discovery thereof and (ii) shall take all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based; provided further, that in the event a force majeure event described in this section extends for a period in excess of thirty (30) consecutive days, either Party may immediately terminate this Agreement.
6. **Headings.** The section and paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, govern, limit, modify or construe the scope or extent of the provisions of this Agreement to which they may relate. Such headings are not part of this Agreement and shall not be given any legal effect.
7. **Amendments and Severability.** No amendment or modification of this Agreement, nor any waiver of any rights, will be effective unless assented to in writing by the party to be charged, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default. In the event that any provision of this Agreement should be found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained shall not, in any way, be affected or impaired thereby.
8. **Assignment.** This Agreement shall be binding upon and inure to the benefit of each Party's successors and assigns. Neither Party may assign this Agreement, in whole or in part, without the other Party's prior written consent; provided, however, that the sale of any portion of the assets of either Party, or any of its subsidiaries, its acquisition by merger into another company, shall not be deemed an assignment of this Agreement by such Party. Provided further, that the Party to be sold or acquired in accordance with the previous sentence must provide written notice to the other Party of any such sale or acquisition within forty-five (45) calendar days of the closing. Any attempt to assign this Agreement other than in accordance with this provision shall be null and void.
9. **Independent Contractors.** The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, joint venture, partnership, franchise, sales, representative or employment relationship between the Parties or to impose any partnership obligation or liability upon either Party. Each Party shall bear its own costs and expenses in performing this Agreement.

10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, without reference to conflicts of laws or choice of laws rules. All legal actions relating to this Agreement shall be brought in the courts of the county of St. Louis, State of Missouri or federal courts located in the State of Missouri. By execution of this agreement, each party accepts for itself, generally and unconditionally, the jurisdiction of such courts and waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, which any of them may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions.
11. **Arbitration.** Any claim arising out of or related to this Agreement, or a breach hereof, is to be settled by arbitration in accordance with the procedures set forth in this [Section 10](#). The Parties agree that, in the event of a dispute arising out of this Agreement, the affected Parties will submit such dispute to binding arbitration as provided herein. All arbitrations will be conducted in St. Louis County, Missouri, or at another location mutually approved by such Parties, pursuant to the Commercial Arbitration Rules of the American Arbitration Association except as provided herein. The panel used will be selected from arbitrators employed by the American Arbitration Association and the decisions of the arbitrators are final and binding on all Parties thereto. All arbitrations will be undertaken pursuant to the Federal Arbitration Act, where applicable, and the decision of the arbitrator is enforceable in any court of competent jurisdiction. The Parties agree to waive their respective rights to further appeal or redress in any other court or tribunal except solely for the purpose of obtaining execution of the decision resulting from the arbitration proceeding. In the event of any arbitration or other legal proceeding brought by any Party with regard to any matter arising out of or related to this Agreement, the Parties hereby expressly agrees that the final award decision will also provide for an allocation and division between or among the Parties to the arbitration, of: (i) legal fees and expenses as set forth in [Section 10.3](#); and (ii) all other costs and expenses of the dispute, including court costs and arbitrators', reasonable accountants' and expert witnesses' fees, costs and expenses (including disbursements) incurred in connection with such proceedings, on a basis which is just and equitable under the circumstances. The arbitrator is directed by this Agreement to conduct the arbitration hearing no later than three (3) months from the service of the statement of claim and demand for arbitration unless good cause is shown establishing that the hearing cannot fairly and practically be so convened. Depositions will be taken only as deemed appropriate by the arbitrator and only where good cause is shown. The Parties to the arbitration will be entitled to conduct document discovery by requesting production of documents. Responses or objections will be served twenty days after receipt of a request. The arbitrator will resolve any discovery disputes by such pre-hearing conferences as may be needed. The Parties agree that the arbitrator and any counsel of record to the proceeding have the power of subpoena process as provided by law. Notices of demand for arbitration must be filed in writing with Company and the other Members in accordance with [Section 10.1](#). A demand for arbitration is to be made within a reasonable time after the claim has arisen, but in no event later than the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations. The award rendered by the arbitrators, including as to legal fees in accordance with [Section 10.3](#), is final, and judgment may be entered upon it in accordance with the law in any court of competent jurisdiction.
12. **Non-Exclusive Arrangement.** The Parties understand that this Agreement is not an exclusive arrangement between the Parties. The Parties agree that they are free to enter into similar transactions as set forth in this Agreement with other entities and that the Parties may directly or indirectly solicit customer referrals via other channels under terms that may differ from the terms and conditions set forth herein.
13. **Construction.** In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed, or if any provision is held invalid by a court of competent jurisdiction, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties, and the remainder of this Agreement shall remain in full force and effect. There shall be no presumption for or against either Party as a result of such Party being the principal drafter of this Agreement.
14. **Interpretation.** The Parties hereto agree that this Agreement is the product of negotiation between sophisticated parties and individuals, all of whom were represented by, or had an opportunity to be represented by legal counsel, and each of whom had an opportunity to participate in, the drafting of each provision hereof. Accordingly, ambiguities in this Agreement, if any, shall not be construed strictly or in favor of or against either Party but rather shall be given

a fair and reasonable construction.

- 15. **Records.** During the Term and for a period of 1 year(s) thereafter, the Parties will maintain books and records related to the customer transactions contemplated under this Agreement. Upon reasonable notice, the requested Party will provide such books and records to the requesting Party for review to ensure the requested Party's compliance with the terms of this Agreement.
- 16. **Signatories.** This Agreement shall be signed on behalf of {{billing\_company}}, Client, by {{customer\_wp\_user\_firstname}} {{customer\_wp\_user\_lastname}}, and on behalf of MARC Strategies, Inc., d.b.a., Agency, by Michelle Eisenhart, Founder and President.

**APPENDIX A: Party Responsibilities & Payment Terms**

**Activities of MARC Strategies, Inc.:**

Including, but not limited to, social media marketing, digital advertising, website implementation and support, content marketing, email marketing, digital marketing and consulting.

**Payment Terms:**

Payable at onset of services and/or upon receipt of invoice.

**Agency: MARC Strategies, Inc., d.b.a. Fly Pages**

Name: Michelle Eisenhart

Title: Founder and President

**Client: {{billing\_company}}**

Representative Printed Name: {{customer\_wp\_user\_firstname}} {{customer\_wp\_user\_lastname}}

IN WITNESS WHEREOF, each of {{billing\_company}} and MARC Strategies, Inc., d.b.a. Fly Pages has caused this Agreement to be signed and delivered by its duly authorized representative.

X *Michelle Eisenhart*

Signed By Michelle Eisenhart  
Signed On: October 10, 2018

X \_\_\_\_\_



# Signature Certificate

Document name: FB + IG Advertising Setup Services Agreement

Unique Document ID: F670568E0BB55C520D7B161FC4E0AAC9F8474C45

LEGALLY SIGNED USING  
**WP**signature  
Build. Track. Sign Contracts.

## Timestamp

September 24, 2018 10:15 am CST

## Audit

FB + IG Advertising Setup Services Agreement Uploaded  
by Michelle Eisenhart - meisenhart@marcstrategies.com  
IP 162.194.250.209



This audit trail report provides a detailed record of the online activity and events recorded for this contract.

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