

Terms of Use

Last Updated: September 6, 2023

These Terms of Use (“Terms”) govern the relationship by which Medstar Media, INC. (“Company”) provides certain Services to you (“Client”). Both Company and Client may each be referred to as a “Party” and collectively as the “Parties.”

By agreeing to accept the Services, including by rendering any payment towards the costs of the Services or instructing Company to begin performing the Services, both Client and Company agree to be bound by these Terms. Please review these Terms carefully before using the Services. Company may change these Terms or modify any features of the Services at any time and Client’s continued use of the Services is Client’s consent to the Terms as is then in place.

1. Services. The “Services” shall be the professional services set forth on any invoice accepted between the Parties. Client may accept an invoice as an offer from Company by rendering any payment towards the costs of the Services or instructing Company to begin performing the Services.

1.1. All estimates provided are solely estimates and Company expressly disclaims their accuracy or use for any purpose.

1.2. Payment for advertising placement expenses are not included in the cost of the Services.

2. Payment.

2.1. **Invoicing.** All invoices are due and payable immediately upon receipt and Company shall not be obligated to begin any Services until the associated amount has been paid. Client authorizes Company to automatically charge any amounts invoiced and owed to any payment methods of Client provided to Company. This authorization shall remain in effect until all amounts owed to Company have been paid in full. Client shall keep no less than one payment method on file with Company up to date and accurate.

2.2. **Late Payment.** Payments more than thirty (30) days late will accrue late interest at the rate of 1.5% over the outstanding balance per month, or the maximum rate permitted by law, whichever is less, from the date such payment was due until the payment of the balance with the monthly interest accrued pro rata with respect to any period less than one month.

2.3. **Price Changes.** Services provided on a recurring basis are subject to change in price at Company’s discretion but Company will notify Client no less than sixty (60) days before any such price change.

2.4. **Taxes.** Client shall be responsible for payment of all sales, use, property, value-added, withholding, or other federal, state, or local taxes except for taxes based solely on Company’s net income.

2.5. **No Refunds.** All amounts shall be deemed earned by Company upon receipt of payment for such. There shall be no refund for any amounts already paid from Client to Company.

3. Term & Termination.

3.1. **Term.** All invoices shall remain effective until terminated pursuant to this Section 3.

3.2. **Term Length.** There is a four-month minimum for Digital Marketing Management Services. The agreement will auto-renew monthly. The four-month term starts the first day your ads are launched.

3.3. **Termination.** After the initial four-month period, either Party may terminate an invoice for any reason or no reason at all upon forty-five days’ notice to the other Party. Upon termination neither Party shall be liable to the other Party for any amounts not yet accrued or earned.

4. Data.

4.1. **Ownership Generally.** Upon full acceptance and payment for all Services, Company acknowledges and agrees that all project deliverables set forth on the applicable invoice, which by their nature are unique to Client and not fit for reuse by Company (collectively, the “Work Product”), are specially commissioned works made for hire (as defined under the U.S. Copyright Act), and Client shall be deemed the author of all such Work Product. To the extent that such Work Product is not deemed a work made for hire under U.S. copyright law, Company shall assign to Client all right, title and interest held by Company in and to any such Work Product, including all Intellectual property rights

therein. Nothing in the Agreement shall be construed to in any manner prohibit or restrict Company from redeveloping any Work Product provided such redevelopment does not use any Client Information. Client shall have sole responsibility for ensuring that any proposed trademarks intended to be a trademark are available for use in commerce and federal registration and do not otherwise infringe the rights of any third party. Client hereby indemnifies, saves and holds harmless Company from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by any third party alleging any infringement arising out of Client's use and/or failure to obtain rights to use or use of the Deliverables.

- 4.2. **Exceptions.** Client shall have no right or interest in any Work Product that does use or reference any property, or information owned or used by Company ("Company Property"). Company Property shall include, without limitation: developer tools and applications; and any Framework. "Framework" means any property used by Company to develop or create software or websites or service or any other item for Client under this Agreement.
- 4.3. **License to Use Feedback.** Client grants to Company a worldwide, perpetual, irrevocable, royalty free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Client or its employees, consultants or contractors relating to the operation of the Services, excluding any Client Information.

5. Client Obligations.

- 5.1. In order to perform the Services, Company needs timely cooperation and assistance from Client; Client agrees to promptly provide such cooperation and assistance as reasonable requested by Company.
- 5.2. Client shall not (a) sell, resell, rent or lease the Services; (b) interfere with or disrupt the integrity or performance of the Services; (c) attempt to gain unauthorized access to the Services or their related systems or networks; or (d) do anything else prohibited by these Terms.

6. Disclaimers.

- 6.1. **Disclaimers Generally.** Client acknowledges and understands that neither Company, nor any of its employees, representatives, agents or the like, warrant that the Services offered or provided hereunder will not be interrupted, error free, accurate or produce the wanted results. Company does not make any warranty as to the results of the Services or that may be obtained from the use of the Services, including, without limitation, site ranking on internet search engines and site traffic generation.
- 6.2. **Scheduled Downtime.** Client acknowledges that the Services may be temporarily unavailable due to scheduled maintenance, for unscheduled emergency maintenance or for factors outside of the control of Company. When reasonably possible, Company shall use reasonable efforts to provide advance notice of a scheduled interruption to the Services but in no event shall there be any refunds or credits for unavailability of the Services.
- 6.3. **Third Parties.** Company's Services may rely on the participation and cooperation of third parties like Google Ads and Meta (Facebook/Instagram). Health Care and aesthetic-related services are heavily scrutinized and often unjustly paused or suspended preventing a person from advertising. If one or multiple ad accounts are suspended Company shall continue to provide the agreed to Services and work towards resolution of the suspension but Company cannot and does not guarantee the success of these efforts and there shall be no abatement in Service costs for suspended accounts.

7. **Company Disclaimers.** The Parties agree that, in respect of information and Services provided by Company under these Terms, except as expressly stated herein, COMPANY MAKES NO AND CLIENT DOES NOT RELY ON ANY, EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE PROJECT DELIVERABLES OR SERVICES, OR THEIR CONDITION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE BY ANY CUSTOMER. COMPANY FURNISHES THE WARRANTIES EXPRESSLY SET FORTH IN THESE TERMS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Except as expressly provided in these Terms or Services are provided "as is" with all faults, and the entire risk as to satisfactory quality, performance, accuracy, and effort is with the user of such information or Services.

Data and Site Security. Company takes commercially reasonable efforts to create safe and secure Work Product. If Client purchases extended security services, Company shall also take commercially reasonable efforts to monitor the Work Product in accordance with the Services purchased. Notwithstanding the foregoing, Company shall not bear any liability, whatsoever, for any damage or interruptions caused by any computer viruses, spyware, scareware, Trojan horses, worms or other malware that may affect Client's website, data, computer or other equipment, or any phishing, spoofing or other attack, unless such damage or interruption originated from Company due to its gross negligence, fraud, or willful misconduct.

8. **Limitation of Liability.** Under no circumstances shall Company be liable for lost profits or any incidental, special, exemplary, or consequential damages. Neither Party shall be required to indemnify the other except as required by the express terms of these Terms. The total liability of Company to Client under these Terms or otherwise shall be limited to the value of any fees paid or due by Client to Company or otherwise earned by Company under an invoice in the six (6) months immediately prior to the filing of a claim.
9. **Governing Law.** These Terms shall be governed by the laws of Utah. without giving effect to Utah's choice of law provisions. In the event either Party breaches, or threatens to breach these Terms, the non-breaching Party may apply to a court of competent jurisdiction for injunctive or other equitable relief to restrain such breach or threat of breach, without disentiing the non-breaching Party from any other relief in either law or equity.
10. **Survival.** All terms and provisions of these Terms, including any exhibits, which by their nature are intended to survive termination of these Terms, will so survive.
11. **Entire Agreement.** Notwithstanding any non-disclosure agreement entered between the Parties, these Terms, including any Exhibits or other documents specifically incorporated by reference, sets forth the entire agreement between Company and Client with respect to the subject matter hereof and supersedes all previous representations, understandings or agreements and shall prevail notwithstanding any variance with terms and conditions of any other prior writing between the Parties. COMPANY MAKES NO AND DISCLAIMS ALL REPRESENTATIONS NOT EXPRESSLY INCLUDED IN THESE TERMS AND CLIENT HAS NOT RELIED UPON ANY REPRESENTATIONS NOT EXPRESSLY INCLUDED IN THESE TERMS AND EXPRESSLY DISCLAIMS SUCH RELIANCE.
12. **Enforcement.** If any provision of these Terms is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless continue in full force and effect and the invalid provisions modified to the maximum effect legally allowed.
13. **No Waiver.** Any waiver by either Party hereto of any breach of the terms and conditions hereof will not be considered a modification of any provision, nor shall such a waiver act to bar the enforcement of the subsequent breach. No waiver of any provision of these Terms shall be valid unless in writing and signed by both Parties.

By signing below, the parties confirm that they have read and understood all terms and conditions of this agreement, and willingly accept them.