

WEBSITE ADVERTISING AGREEMENT

This Agreement ("Agreement") is entered into this ____ day of _____, 2017, by and between Market Approach Consulting, LLC ("Vendor"), a Texas Limited Liability Company whose main address is 111 E. Center Street, Lorena Texas 76655, and _____ ("Customer"), a _____ whose main address is _____.

1. **Advertisement Services.** Vendor shall provide advertising services in the form of placement of lead generation advertisements (hereinafter: "Advertisements") which will be placed on websites operated by Vendor or third party websites contracted with by Vendor (hereinafter "Websites") for the purpose of obtaining contact information from persons who provide such information (hereinafter described as the "Leads") and providing that contact information obtained in response to the Advertisement to the Customer (hereinafter cumulatively referred to as the "Services"). For purposes of placing Advertisements on Websites, Vendor shall act as an agent of Customer and Customer shall be fully responsible for the content of all Advertisement Copy. For all other purposes, Vendor shall be considered an independent contractor.

2. **Advertisement Submission.** Customer shall submit an order for Services (hereinafter referred to as an "Advertisement Placement Order" or "APO") for each Advertisement for which Services are requested. The form of the APO is attached as Exhibit A hereto and may be changed from time to time at the sole discretion of Vendor. Vendor shall have the option of accepting or rejecting any APO in its sole and absolute discretion. Each APO shall be incorporated herein as an exhibit to this Agreement, effective on the date of acceptance by the Vendor.

3. **Advertisement Content.** Customer shall provide the content and photo ready copy (hereinafter "Copy") to Vendor for each Advertisement for which Vendor is requested to provide Services. Copy shall include, but is not limited to, all art, photos, wording, content, illustrations, other content of any kind, and the actual Advertisement layout, as well as any disclaimers or disclosures which the Customer provides to be included in the Advertisement. All Copy will be provided not less than fifteen (15) days prior to the date that the Advertisement will first appear on a Website (hereinafter the "Publication Date") set forth in the applicable APO. Copy shall include the full layout of the Advertisement as the Customer desired it to appear on a Website.

4. **Customer Publication Layout Approval.** Upon receipt of the Advertisement Copy from Customer, Vendor shall submit the Copy to the Website for set up for publication and to produce the version of the Advertisement as it will be displayed on the Website (hereinafter the "Publication Layout"). Vendor shall deliver to Customer a copy of the Publication Layout. Thereafter, Customer shall deliver to the Vendor within one (1) business day from receipt of the Publication Layout its approval or rejection of the Publication Layout. In the event that the Customer rejects the Publication Layout, it shall immediately deliver by facsimile transmission or Email, a written rejection notice that specifies the reason for such rejection. In the event Customer does not provide approval or rejection within the designated time period, the Publication Layout shall be considered approved by the Customer for publication. In the event that the Customer rejects the Publication Layout, Vendor shall take such actions as is reasonably necessary to correct the Publication Layout and resubmit to the Customer for approval, or in the alternative, reject the Advertisement for publication and terminate the applicable APO.

5. **Ownership of Advertisement Copy.** Customer represents and warrants to Vendor that all Copy of each Advertisement submitted for Services by Customer to Vendor shall be the sole property of Customer, or the Customer shall have obtained all required licenses or other authorizations required to use the content included in any Copy or Advertisement submitted for Services to the extent that such content is owned by any party other than Customer. Customer grants Vendor a worldwide, unrestricted right to utilize the Advertisement Copy for purposes of performing this Agreement.

6. **Ownership of Software, Code and Design.** Customer understands that in order to place the Advertisement Copy on Websites, certain software code has been developed or licensed by Vendor, or its contractors, for the purpose of displaying the Advertising Copy on the Websites and capturing the response information. Customer agrees and confirms that it has no right, title, license or interest in any of the software, computer code, programming, or any design characteristics used by Vendor, or any of its contractors, to display the Advertisement on a Website or to capture the response information to be provided by Vendor pursuant to this Agreement or otherwise.

7. **Vendor Responsibility.** Vendor's sole responsibility shall be the placement of the Advertisements on the Websites and providing Customer the Leads generated from such Advertisements. Vendor shall use reasonable efforts in conformance with generally accepted industry standards, and at the sole discretion of Vendor, to place

each Advertisement on Websites which are available to the general public. For purposes of this Agreement, Lead information shall be limited to the information requested in the APO for the Advertisement.

8. **No Warranty or Guarantee.** Vendor provides no warranties or other guarantees except to the extent specifically set forth herein. Customer understands and agrees that Vendor has no control over the response rate to any Advertisement. Customer understands and agrees that Vendor has no control over the Customer's sale process and that Vendor does not warrant or guarantee any conversion rate of Leads to sales or other desired outcomes by Customer. Customer specifically acknowledges that Vendor has no control over the responses to any Advertisement placed for Services and makes no warranty of any kind or type relating to the results or content of the Services or Leads generated, or that a specific number of Leads will be generated.

9. **Customer Compliance with Law.** Customer represents and warrants that it shall comply with all applicable federal, state, local, and to the extent applicable international, laws, rules and regulations. Customer further warrants that at all times it will use the Leads generated such that its actions shall be in compliance with the Direct Marketing Association's Privacy Promise and all other rules and guidelines of the Direct Marketing Association relating to the use of the Leads provided as a result of the Services. Without limiting the foregoing, Customer shall comply with every applicable federal, state, local, and to the extent applicable international, law including but not limited to the "CAN-SPAM Act of 2003 and the rules and regulations related thereto". Customer shall also comply with all federal, state and local "DO NOT CALL" and "DO NOT MAIL" regulations and all rules and regulations relating to such registries as well as all Federal Communication Commission, rules, regulations and orders related to the Telephone Consumer Protection Act. Customer further agrees that it shall abide by all directives, rules and regulations of the Direct Marketing Associations related to telemarketing and direct mail advertising. Customer agrees that it shall use the Leads generated as a result of the Services (i) strictly in accordance with applicable law, rule, regulation, or marketing association guidelines ("Applicable Laws"); (ii) in a manner which gives due consideration to matters concerning privacy, confidentiality, good taste, and other issues to which individual and business consumers may be sensitive; and (iii) without any indication that any party possesses any information about the recipient other than name and/or address and other information provided as a result of the Lead generation provided as a result of the Service. Vendor is not responsible for and makes no representation or warranty with respect to compliance with any such applicable laws as a result of accepting any APO, or otherwise. Customer understands and agrees that it bears sole responsibility for assuring itself that its Advertisement Copy and the subsequent Advertisement displayed on the Website(s), and all communications to any person whose information is provided as a Lead generated from an Advertisement does not violate any federal, state, local, or if applicable international, law, statute, or regulation or any other consumer-protection laws or rules or Applicable Law.

10. **Confidentiality.** Vendor and Customer each acknowledge and agree that all information provided to either party by the other relating to their respective methods of operation and pricing, shall be considered confidential in nature ("Confidential Information"). Additionally, the Lead information generated by Vendor and delivered to the Customer and the identity of the Websites and contractors used by Vendor shall be Confidential Information. Each party shall safeguard the other party's Confidential Information from disclosure in accordance with generally accepted industry practices and standards. Each party agrees to use such Confidential Information solely for the purposes contemplated by this Agreement and shall not share or divulge any of the Confidential Information to any other party. All Confidential Information which either party receives from the other shall be returned to the disclosing party upon request or upon the termination of this Agreement. For purposes of this Agreement, Confidential Information shall not include anything which is well known in the trade; which is now or which may be available to the public through no fault or action of the disclosing party; is disclosed with the prior written approval of the non-disclosing party; which is publicly available; which was independently developed by the non-disclosing party; or which was lawfully disclosed to either party by a third party. This Paragraph 10 shall survive termination or expiration of the Agreement.

11. **Term.** The term of this Agreement shall commence on the effective date specified above and shall continue in full force and effect for a period of one (1) year or for long as any APO is in effect, whichever is later. This Agreement shall automatically renew for additional one (1) year periods unless either party provides written notice to the other at least ninety (90) days prior to the then current termination date.

12. **Payment.** Customer shall be responsible for payment of all invoices generated from each Website on which Vendor places Advertisements of Customer. Vendor, as agent for Customer, shall receive the invoices from the Websites and shall remit payment for such invoices on behalf of Customer from the funds remitted to Vendor by Customer on a monthly basis. Vendor shall generate an invoice to Customer on a monthly basis based upon the amount due for the number of Leads generated, and for any other amounts that may be due as a result of the charges

set forth in the applicable APO or as described in this Agreement. All invoices shall be due and payable by Customer to Vendor within ten (10) days from receipt of the invoice by Customer. At the election of Vendor, Customer may be required to provide a deposit prior to the acceptance of any APO. Payments not received by the applicable due date will bear interest at nine percent (9%) per annum or, if less, the highest legal rate of interest then permitted in the State of Texas.

13. **Taxes.** In addition to all amounts due for Services and other related charges, Customer shall be responsible for payment of all sale and use taxes applicable to the Services being provided and all other taxes which are chargeable by law relating to the Services. All tax charges shall be listed as a separate line item on each invoice and are payable in conformance with the payment terms set forth in this Agreement. To the extent that the Customer provides a properly completed State of Texas Sales Tax Exemption Form to Vendor, Vendor shall not charge sales tax for the Services claimed to be exempt. In such event, Vendor may rely on such exemption form for all purposes, and the failure of any governmental body to honor such claimed exemption shall be a material breach of this Agreement unless all taxes due are paid within three (3) business days following notification of denial of the exemption by the state of Texas.

14. **Limitation of Warranty.** Vendor makes no express or implied warranty or representation regarding the accuracy or reliability of the data included in any Lead provided or the results to be obtained through use of such Leads, the completeness of any Leads, or the deliverability of communications based upon any Leads. VENDOR MAKES NO REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY OR FITNESS OF THE SERVICES FOR ANY PARTICULAR PURPOSE. Vendor makes no warranty or representation that any Lead or other information provided by it has been purged of names, addresses, or phone numbers that are covered by any federal, state, or other "DO NOT CALL", "DO NOT MAIL", or similar registry or that the information provided is a cellular or wireless telephone number. Vendor makes no representation or warranty that the disclosures, disclaimers or prior express consent language provided by the Customer for use in any Advertisement, meets the requirements of applicable law.

15. **Limitation of Liability.** VENDOR SHALL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES TO BUSINESS REPUTATION, LOST BUSINESS, COSTS OF COVER, POSTAGE OR TELEPHONE CHARGES, OR LOST PROFITS), FORESEEABLE OR NOT, AND REGARDLESS OF HOW CAUSED, RELATED TO THE SERVICES OR CUSTOMER'S USE OF THE INFORMATION PROVIDED IN ANY LEAD DELIVERED PURSUANT TO THIS AGREEMENT OR APPLICABLE APO. CUSTOMER'S SOLE REMEDY FOR ANY ALLEGED BREACH OF THIS AGREEMENT BY VENDOR, OR ANY OTHER DAMAGES OF ANY KIND, SOUGHT BY CUSTOMER AGAINST VENDOR, SHALL BE THE REFUND OF THE CHARGES CUSTOMER HAS PAID VENDOR WITH RESPECT TO THE APPLICABLE APO TO WHICH THE ALLEGED BREACH OR DAMAGES RELATE.

16. **Indemnification.** Customer shall indemnify Vendor, its officers, directors, employees, agents and contractors, against any and all liabilities, damages, losses, claims, costs, expenses (including attorneys' fees), fines, penalties, and other obligations arising out of or resulting from Customer's breach of this Agreement or its use of one or more Leads, including without limitation liabilities related to alleged violation of the terms of any governmental or other "DO NOT CALL" registry, the Telephone Consumer Protection Act, or any other federal, state, local, or to the extent applicable international, law or consumer-protection rule.

Vendor shall indemnify Customer, its officers, directors, employees, agents and contractors, against any and all liabilities, damages, losses, claims, costs, expenses (including attorneys' fees), fines, penalties, and other obligations arising out of or resulting from Vendor's breach of this Agreement.

In the event that any Party seeks indemnification from the other it shall give the other party prompt written notice of its claim for indemnification and provide full documentation as to the reason for seeking indemnification. The party from whom indemnification is sought shall have ten (10) days from receipt of the indemnification request to accept or reject the indemnification request. In the event of no response, the indemnification request shall be deemed rejected. Upon acceptance of the duty to indemnify, the party providing indemnification (hereinafter the "Indemnifying Party") shall control the defense or settlement of any such claim or cause of action and shall retain counsel reasonably satisfactory to the party being indemnified (hereinafter the "Indemnified Party"). The Indemnified Party shall provide full information and reasonable assistance to the Indemnifying Party as required to settle or defend any such claim. The Indemnifying Party shall permit the Indemnified Party to monitor any defense or settlement being conducted at the sole cost and expense of the Indemnified Party. The Indemnifying Party shall not settle any such claim for which indemnification is being provided without prior written approval of the

Indemnified Party and approval shall not be unreasonably denied by the Indemnified Party. Notwithstanding the prior sentence, the Indemnifying Party may settle any case or claim provided that such settlement includes only monetary damages paid by the Indemnifying Party at the time of the settlement, and there is no admission of liability made as to Indemnified Party.

17. **Orders.** This Agreement is intended to be performed through Customer's submittal of one or more fully completed APO's that is accepted by the Vendor.

18. **Delivery of Leads.** Vendor may provide the Leads in the form of an automated data feed to Customer in a format agreed by Vendor and Customer. In such event the Leads shall be deemed delivered on the date that the data feed is sent to Customer. In the alternative Leads may be delivered in standard comma-delimited format in a text file ("Standard Format") unless otherwise specified. If Customer requires a special file format, Customer must notify Vendor of the requirements in writing with the special file format specifications. Vendor reserves the right to pass thru any charges and expenses incurred by Vendor to provide the Leads in any format other than the Standard Format. Vendor may change the delivery method of Leads at any time by providing Customer thirty (30) days advanced written notice of such change. For purposes of calculating the number of Leads delivered, the business records of Vendor shall be considered the official number of Leads generated and delivered to Customer. Customer agrees to pay for all Leads based on Vendor's calculation of delivered Leads.

19. **Rejected Leads.** Customer agrees that the maximum rejection rate for each Advertisement included in an APO is five percent (5%) of all Leads provided for any Advertisement. Rejection of individual Leads shall be limited to (a) failure of an individual Lead to contain accurate Contact Information, or (b) failure of the individual Lead to satisfy the requirements set forth in the applicable APO for the Advertisement. For purposes of this Agreement, Contact Information shall mean either a valid telephone number or mailing address of person identified as the contact person in the individual Lead. Customer must notify Vendor of each Lead that is rejected on a weekly basis for the Leads provided in the prior week. Any Lead that is not rejected within the required timeframe shall be deemed to have been accepted by Customer. Rejected Leads must be returned to Vendor in the same file format as delivered to Customer with an explanation as to why the individual Lead was rejected.

20. **Excess Delivery.** To the extent that any APO designates a specific number of Leads to be provided, Vendor may deliver up to an additional five percent (5%) above the quantity requested. Customer shall be liable for payment for all Leads delivered, less credit for Rejected Leads as set forth in paragraph 19.

21. **Cancellation Fee.** In the event that Customer cancels any Advertisement listed on any APO prior to the Publication Date for the Advertisement, Customer shall pay to Vendor a setup fee of five thousand dollars (\$5,000.00). In the event that any Advertisement listed in an APO is canceled after the Publication Date for the Advertisement, but prior to the Advertisement generating ten thousand dollars (\$10,000.00) in billable revenue to Vendor, Customer shall pay Vendor the actual billable revenue for Leads provided for the Advertisement and the difference between the actual billed revenue for the Advertisement and ten thousand dollars (\$10,000.00).

22. **Publicity.** Customer grants Vendor the right to use Customer's name for purposes of press releases, and advertising by the Vendor related to its products and services. Vendor shall provide Customer copies of all such materials in which the Customer's name appears not less than three (3) days prior to the date on which the press release or advertising is first published.

23. **No Assignment.** Customer may not assign this Agreement to any third party. This Agreement is binding upon the parties' respective successors and legal representatives.

24. **Entire Agreement.** This Agreement, together with each individual APO submitted to Vendor by Customer and accepted by Vendor, constitute the entire Agreement between the parties and supersedes any prior written or verbal agreements regarding the same subject matter.

25. **Applicable Law.** This Agreement and the parties' performance hereof shall be governed by the laws of the State of Texas, except to the extent such laws are superseded by federal laws, but without respect to Texas laws concerning conflicts of law. All disputes arising from this Agreement shall be determined by a tribunal located in McLennan County, Texas (or elsewhere within the federal judicial district in which McLennan County is located), and Customer consents to the jurisdiction of the state and federal courts located in Texas and waives any objection based upon lack of jurisdiction or inconvenient forum. Service of process by either party upon the other by certified mail shall be deemed adequate in any such case.

26. **Non Participation by Vendor.** Customer acknowledges and agrees that Vendor is not involved in Customer's use of any Lead or other information provided by Vendor or in the design or implementation of Customer's Advertisements or Copy, or in any other aspect of Customer's business expect for providing the Services described herein.

27. **Waiver.** Waiver of performance of any provision of this Agreement, if granted, must be in writing and signed by the party granting the waiver. Waiver of performance of any provision of this Agreement at any time shall not constitute waiver of the waived provision at any other time.

28. **Amendment.** This Agreement may be amended only by a written instrument signed by both Vendor and Customer.

29. **Non-Competition and Circumvention.** During the term of this Agreement and for a period of one (1) year following its expiration, Customer shall not utilize, directly or indirectly, or allow any person to do so on its behalf, the services of any Website which published any of the Advertisements as a result of the Services provided by Vendor.

30 **Notices.** Notices permitted or required to be given hereunder shall be sufficient if given to the party intended to receive same at the address given below for such party (or such other address as such party may furnish by notice given in accordance with this section) by (i) hand-delivery, including delivery by commercial courier, with evidence of delivery; (ii) certified mail, return receipt requested; or (iii) facsimile transmission with proof of successful transmission. The parties' respective notice addresses are:

Vendor:	Customer:
Market Approach Consulting, LLC	_____
P.O. Box 788	_____
111 East Center Street	_____
Lorena, Texas 76655	_____
Attention: Mr. Mark McLean	Attention: _____
Fax: 254/857-1001	Fax: _____
Email: _____	Email: _____
	Phone: _____
	<u>Email Address for Invoices:</u> _____

SIGNED by the parties' respective duly-authorized representatives.

_____ (Customer)	MARKET APPROACH CONSULTING LLC
By: _____	By: _____
Title: _____	Title: _____
Date Signed: _____, 20 ____	Date Signed: _____, 20 ____