

TERMS OF SERVICE

PLEASE READ THESE TERMS OF SERVICE CAREFULLY. BY CLICKING THROUGH AND ACCEPTING THESE TERMS OF SERVICE, YOU EXPRESSLY AGREE TO AND UNCONDITIONALLY ACCEPT THESE TERMS OF SERVICE. IF YOU DO NOT FULLY AGREE TO THESE TERMS, PLEASE DO NOT ACCEPT.

Definitions:

- “Agreement” refers to and means: (a) these Terms of Service (“Terms”); and (b) any subsequent modifications to these Terms. The Agreement is made and entered into between Provider and Client. There are no intended third-party beneficiaries under this Agreement.
- “Client” refers to and means the person or entity named as “Client” that is approving and accepting these Terms. For purposes of Provider’s obligations to Client, it shall be liable only to the person or entity so named therein.
- “Client Content” refers to and means the brand assets, including logo, of the Client and any other information about the Client, supplied by the Client.
- “Client Data” refers to and means non-sensitive information about Client’s customers such as the customer’s name, email address, and what kind of customer the customer is (that is: customer classification). **Client Data expressly excludes** any information, unless it is required for the performance of the Services, that is considered sensitive, including but not limited to: (i) **health information**, including any data related to medical history, treatment, or conditions; (ii) **financial information**, such as credit card numbers, bank account details, or payment history; (iii) **government-issued identification**, including Social Security numbers, driver’s license numbers, or passport details; (iv) **authentication credentials**, such as passwords or security codes; and (v) any other information that, if disclosed or misused, could result in harm, fraud, or identity theft for the customer, or any other personally identifiable information that is subject to data protection laws requiring special handling (collectively, “Restricted Data”). Client shall not provide Restricted Data to Provider.
- “Fractional Executive” means the person engaged by the Client in the Proposal.
- “Party”, whether capitalized or not, refers to and means either Client or Provider.
- “Parties”, whether capitalized or not, refers to and means the Client, Provider, and Fractional Executive collectively.
- “Proposal” means the proposal whereby the Client engaged the Provider.
- “Provider” refers to and means exclusively Andrew & West, LLC.
- “Services” refers to and means the professional services performed by the Fractional Executive in accordance with the Proposal.
- “Term” and “Term of the Agreement” refers to and means the length of our contractual relationship as set forth in the Proposal hereof regarding termination and notice.
- “We” “Us” and “Our”, as used in this Agreement, and whether capitalized or not, refers to and means Provider.

- “You” and “Your”, whether capitalized or not, refers to and means the Client.

Entire Agreement:

This Agreement shall constitute the entire, final, and exclusive agreement and understanding between the Provider, Fractional Executive, and Client with regards to the subject matter hereof. The provisions of these Terms hereby supersede any prior understanding, representation, or agreement between the parties, whether written or oral, express or implied, which is inconsistent with or contrary to the provisions hereof.

1. PROVIDER’S SERVICES

1.1 During the Term of this Agreement, and provided that Client is not in default hereunder, Provider and Fractional Executive will use reasonable efforts to perform the Services in a commercially reasonable manner.

1.2 Client expressly releases Provider and Fractional Executive, and hereby waives all claims and causes of action against Provider and Fractional Executive whether at law or in equity, now or hereafter acquired, for lost profits or for consequential, incidental, punitive, or any other form of damages arising from or relating to the Services; (ii) delays in Provider’s or Fractional Executive’s provision of the Services based on any delays in Client providing information, input, or approvals to Provider or Fractional Executive necessary to perform the Services; or (iii) any security breach, theft, conversion, or hacking related to the Services, the Client Content, and Client Data.

1.3 In the event of Client’s failure to provide, or delay in timely providing any information, input, or approvals to Provider or Fractional Executive necessary to the Provider’s or Fractional Executive’s performance of Services, the Client acknowledges that such failure or delay will necessarily result in the delay in completion of such Services. Any such delay does not relieve the Client of its payment obligations under this Agreement.

1.4 Client grants to Provider a non-exclusive, non-transferrable, irrevocable, and non-sublicensable license to display and promote Client Content (including logos, designs, and branding which may be subject to Client’s trademark or copyrights) in connection with Provider’s business marketing and advertisements.

2. RESTRICTIONS & RESPONSIBILITIES

2.1 SECTION 2 HEREOF (AND ITS SUBPARTS) SETS FORTH THE SOLE AND EXCLUSIVE OBLIGATION OF PROVIDER TO CLIENT WITH REGARDS TO PERFORMANCE OF THE SERVICES. PROVIDER HAS MADE NO REPRESENTATION, WARRANTY, CLAIM, OR GUARANTEE REGARDING THE EFFECT, OUTCOME, OR RESULTS TO BE REALIZED OR OBTAINED BY CLIENT THROUGH USE OF THE SERVICES, AND SPECIFICALLY DISCLAIMS ALL OF THE SAME. PROVIDER DOES NOT GUARANTEE OR WARRANT, AND EXPRESSLY WAIVES AND DISCLAIMS ANY GUARANTEE OR WARRANTY, WHETHER EXPRESS OR IMPLIED, WHICH MAY BE APPLICABLE TO THE SERVICES, OR THE PROVIDER’S OBLIGATIONS UNDER THIS AGREEMENT.

2.2 Client hereby expressly covenants to defend, indemnify, and hold harmless Provider and Fractional Executive and their agents, employees, officers, successors, subsidiaries, parents, affiliates, subcontractors, and assigns (collectively, “Provider Parties”) from and against all claims, causes of action, costs, fees, fines, expenses, losses, and liabilities of any and every kind whatsoever, including attorney’s fees and court costs, which are brought against, sought from, alleged to be the responsibility or fault of, or are incurred by any of the Provider Parties, and which arise from, or in any way relate to: (i) any negligence or intentional wrongful acts by or on behalf of Client or its employees, agents, contractors, officers, subsidiaries, affiliates, or assigns; (ii) the marketing, advertising, or use of any Client Content, or Client Data; (iii) claims of intellectual property infringement, defamation, or false advertising arising from or related to Client Content, or Client Data; (iv) the

breach or threatened breach of any provision of the Agreement by Client; (v) any act or thing for which any of the Provider Parties are released under this Agreement; or (vi) any use, misuse, reproduction, or alteration of any Client Content, or Client Data by any person or entity, regardless of whether any of the foregoing was foreseeable or known to any of the Provider Parties. In no event shall Provider's total liability exceed the amount paid by Client for the services under this Agreement.

2.3 Provider and Fractional Executive shall have no obligation to review, secure, or protect any Restricted Data inadvertently provided by the Client. In the event the Client transmits Restricted Data in violation of this clause, the Client agrees to (i) promptly notify the Provider and Fractional Executive upon discovery, (ii) indemnify and hold harmless the Provider and Fractional Executive from any claims, liabilities, costs, or damages arising from such disclosure, and (iii) assume all responsibility for compliance with applicable data protection laws. Provider and Fractional Executive reserve the right to delete or destroy any such Restricted Data without notice.

2.4 Client acknowledges that Fractional Executive requires the highest level of access to Client systems that are relevant to the Services in order for the Fractional Executive to perform the Services. Accordingly, during the Term, Client will ensure Fractional Executive has the highest level of access to all Client systems to which Fractional Executive requests access in order to perform its Services.

2.5 THE CLIENT HAS FULLY READ AND UNDERSTANDS THE PROVISIONS OF THIS SECTION, AND AGREES TO WAIVE AND DISCHARGE AGAINST PROVIDER, AND THAT PROVIDER SHALL NOT BE HELD LIABLE FOR, ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, COSTS, FEES, FINES, EXPENSES, LOSSES, DAMAGES, OR LIABILITIES OF ANY KIND, WHETHER AT LAW OR IN EQUITY, WHICH ARISE FROM OR RELATE IN ANY WAY TO THIS SECTION OR PROVIDER'S ACTIONS (OR INACTIONS) OR FRACTIONAL EXECUTIVE'S ACTIONS (OR INACTIONS) TAKEN BASED ON, IN FURTHERANCE OF, OR IN RELIANCE UPON THE PROVISIONS OF THIS SECTION.

3. FRACTIONAL EXECUTIVE ENGAGEMENT TERMS

3.1 Supervision and Responsibility. The Parties acknowledge and agree that, upon assignment to Client, the Fractional Executive shall operate under the direction, supervision, and control of Client with respect to all day-to-day duties and business decisions. Provider shall have no obligation to review, oversee, or supervise the Fractional Executive's work or work product in performing the Services. Accordingly, Provider shall not be liable for any acts, omissions, or decisions of the Fractional Executive undertaken in the course of providing the Services, except to the extent such acts or omissions result directly from Provider's gross negligence, willful misconduct, or breach of this Agreement.

3.2 Scope of Authority. During the Term of this Agreement, the Fractional Executive shall have the authority, within the scope of the Services defined in this Agreement and any applicable statements of work, to: (a) Direct and manage teams and personnel under the Fractional Executive's functional domain; (b) Hire, discipline, and terminate personnel reporting to the Fractional Executive, subject to Client's written employment policies and applicable law; (c) Approve and commit Client to business expenditures, software subscriptions, or services within budgetary or authorization limits established in writing by Client; (d) Represent Client in business negotiations, discussions, and relationships related to the Fractional Executive's functional area; (e) Make operational decisions necessary to fulfill the objectives of the Services; and (f) Use Client's credit cards, expense accounts, and other resources in accordance with Client's policies and solely for Client business purposes. The Fractional Executive shall not bind Client to contracts, expenditures, or other commitments that exceed limits established in writing by Client.

3.2 Policies and Procedures. The Fractional Executive shall comply with all written Client policies and procedures provided to the Fractional Executive in writing, including but not limited to: (a) Codes of conduct and ethics; (b) Anti-harassment and equal employment opportunity policies; (c) Expense reimbursement, travel, and

credit card use policies; (d) Data security, information technology, and acceptable use policies; and (e) Any other written policies applicable to Client's employees or contractors that are disclosed to the Fractional Executive. The Fractional Executive shall utilize their own computing devices, including but not limited to laptops, mobile phones, and tablets, to perform the Services, unless otherwise agreed in writing by the Parties. The Fractional Executive is responsible for ensuring that any devices used for the Services provide security at the same level as the Fractional Executive secures its own data.

3.3 Conflicts of Interest. Provider and the Fractional Executive shall promptly disclose to Client any actual or reasonably foreseeable conflict of interest that may affect the Fractional Executive's ability to act in Client's best interests under this Agreement. The Fractional Executive shall refrain from engaging in any activity or relationship that creates a conflict of interest unless expressly approved in writing by Client.

3.4 The Fractional Executive may perform the Services, in its sole discretion, remotely, provided that such remote work complies with all confidentiality, data security, and performance obligations under this Agreement.

4. CONFIDENTIALITY; PROPRIETARY RIGHTS

4.1 Client may, from time to time hereafter disclose to the other party certain business, technical, or financial information relating to that party's business, software, systems, products, or processes (hereinafter referred to as "Client Proprietary Information"). Client Proprietary Information also includes all non-public information regarding the Client. Accordingly, Provider and Fractional Executive hereby agree: (i) to take commercially reasonable precautions to protect such Proprietary Information of Client, but in every event to employ at least the same or better methods for safeguarding the Proprietary Information of Provider and Fractional Executive that Provider and Fractional Executive employ for their own Proprietary Information; and (ii) not to use, disclose, divulge, or reveal, or permit to be disclosed, divulged, or revealed any Client Proprietary Information, except as otherwise permitted herein. Notwithstanding the foregoing, Provider's and Fractional Executive's non-disclosure obligations hereunder shall not apply with respect to any Proprietary Information of Client which is or has become generally available to the public, or which is required to be disclosed by Provider pursuant to applicable law.

4.2 Notwithstanding anything in the Agreement to the contrary, Provider and Fractional Executive shall have the right to collect and analyze data and other information relating to the provision, use, and performance of various aspects of the Services. The Provider and Fractional Executive shall be permitted, during the Term, to use such information and data to improve and enhance its performance in connection with the Services, and disclose to third parties such data under confidentiality provisions the same as between Provider and Client.

5. PAYMENT BY CLIENT

5.1 Client shall pay to Provider the amounts as set forth in the initial Proposal and pursuant to the payment schedule included therein. In addition, Client shall pay to Provider when due the sum owed for any additional Services which may be requested by Client and performed by Provider from time to time after the date of the initial Proposal, which additional Services are made subject to these Terms, and which expressly incorporate this Agreement by reference. Time is of the essence with regards to all of Client's payment obligations hereunder. If a particular payment schedule or due date is not specified in the initial Proposal or subsequent written document memorializing additional Services to be performed, then the due date shall be considered the first day of the month.

5.2 **Automatic Billing & Authorization:** By accepting these Terms, Client authorizes Provider to automatically charge the payment method on file for the Monthly Payments. If a payment date falls on a non-business day, the charge may be processed on the next business day. If Client chooses to make payment by debit card, credit card, or ACH bank withdrawal, Client shall ensure that a current card/bank account information is kept on file with Provider at all times. Provider is entitled to charge any of the debit card(s), credit card(s), or bank account(s)

on file which have been given to Provider as payments become due, and without advance notice to Client. If more than one debit card, credit card, or bank account has been provided to Provider, and one of the foregoing is canceled or a charge thereon is declined, Provider may charge any other debit card, credit card, or bank account on file without advance notice to Client. The foregoing constitutes formal payment authorization, and no further or separate instrument shall be required.

5.3 If a payment fails due to insufficient funds, expired card, or any other reason, Client will be notified and must update their payment information within ten (10) days of being so notified. In addition to, and not to the exclusion of any other remedy Provider may have, in the event of nonpayment by Client of any amount owed when due, Provider may suspend its Services. Any such suspension of the Services does not relieve the Client of its obligations under this Agreement.

5.4 Provider shall in no way be liable for theft, hacking, misappropriation, or security breaches of Client's payment, bank account, debit card, or credit card information.

6. TERM AND TERMINATION

6.1 The Agreement shall begin as of the date upon which the initial Proposal is signed by Client, and shall continue for the entire Term, unless terminated by either party as expressly permitted herein. Unless nonrenewed prior to the end of the Term, the Agreement shall automatically renew on a month-to-month basis, subject to the termination notice provisions below. Notwithstanding anything to the contrary contained herein, and whether occurring during the initial Term or thereafter, the Provider may terminate this Agreement at any time upon written notice to the Client in the event of a breach or threatened breach hereof by Client, or in the event that the Client takes any action which the Provider believes to be unlawful, unethical, or improper.

6.2 After the initial Term, either party may terminate this Agreement for convenience at any time, and for any reason, upon providing thirty (30) days' advance written notice to the other party. In addition, and in the event of the dissolution, bankruptcy, winding up, or death of the principal owner of Provider, Provider may terminate this Agreement immediately upon notice to Client. For purposes of clarity, Client's continued performance of all its obligations stated herein shall be considered material to the Agreement, and the default therein shall entitle the Provider to terminate this Agreement upon notice to Client. Termination of this Agreement for any reason will not relieve Client of its payment obligations hereunder. At the time of termination, Provider will advise Client of any outstanding balance due, and Client shall remit/authorize payment for the same within thirty (30) days therefrom. If Client fails to remit/authorize payment for any outstanding balance due within the foregoing timeframe, then Provider shall automatically be authorized and entitled to, without further notice or demand, charge any debit card, credit card, or bank account on file with Provider.

6.3 Despite any termination of this Agreement during the Term, any amount due from Client shall remain due and payable. After the initial Term, if the Client attempts to terminate this Agreement with less than thirty (30) days advance written notice, then Client shall be responsible for all costs, fees, and expenses incurred by Provider up to and including the date of termination, as calculated by Provider in its sole and absolute discretion. Payment by Client of the foregoing shall not relieve Client of any other payment obligations hereunder, nor shall demand for such payment be considered Provider's exclusive remedy hereunder.

6.4 All sections of the Agreement which by their nature should survive termination will survive termination, including, without limitation, waivers of and limitations on Provider's liability, releases by Client, indemnity agreements, venue and choice of law provisions, waivers and disclaimers of warranties and guarantees, and confidentiality provisions. The foregoing list is not exhaustive.

7. WARRANTY AND DISCLAIMER

NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, PROVIDER DOES NOT WARRANT, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED AS TO: (I) PERFORMANCE OR EFFECTIVENESS OF THE SERVICES. THE SERVICES OF PROVIDER ARE PROVIDED "AS IS", AND PROVIDER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, OR ANY AMENDMENT HERETO, CLIENT HEREBY RELEASES AND WAIVES ALL RIGHTS, CLAIMS, AND ACTIONS AGAINST ALL PROVIDER PARTIES AND PROVIDER'S VENDORS, OFFICERS, AFFILIATES, REPRESENTATIVES, ASSIGNS, SUBSIDIARIES, CONTRACTORS, AND EMPLOYEES FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF USE, REVENUE, OR PROFITS, OR FOR ANY MATTER BEYOND PROVIDER'S REASONABLE CONTROL, INCLUDING ACTS OF GOD, CIVIL STRIFE, HACKING, SECURITY BREACHES, ACTS OF THE FRACTIONAL EXECUTIVE, OR OTHER SIMILAR MATTERS. THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO CLIENT IN ANY ACTION AUTHORIZED UNDER THIS AGREEMENT AGAINST PROVIDER SHALL BE LIMITED TO THE SUM OF ONE (1) MONTH'S MOST RECENT MONTHLY PAYMENT, REGARDLESS OF WHETHER PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF ADDITIONAL DAMAGES. CLIENT EXPRESSLY WAIVES THE RIGHT TO SEEK RECOVERY OF ANY OTHER MEASURE OF DAMAGES, OR FOR ANY OTHER REMEDY AT LAW OR IN EQUITY.

9. MISCELLANEOUS

9.1 The Agreement is not assignable, transferable, or sublicensable by Client except with Provider's prior written consent, which may be withheld in its sole and absolute discretion. Provider may assign the Agreement without the consent of or prior notice to Client.

9.2 Except as otherwise provided herein, no waiver or modification of the Agreement shall be valid unless made in the form of a writing signed by Provider. However, changes to the Services may be made from time to time as the Provider agrees to in writing (which writing may take the form of an e-mail or series of e-mails by Provider).

9.3 No agency, partnership, joint venture, or employment relationship is created between the Parties or their respective personnel by virtue of the Agreement and Client does not have any authority of any kind to bind Provider in any respect whatsoever to any obligation not expressly stated in the Agreement. Provider is an independent contractor of Client. Provider has no control over or responsibility for the business decisions of Client, and therefore Provider shall not be held liable for any action or inaction of Client which is based upon Client's interaction or relationship with Provider.

9.4 In the event that legal action is taken by either party against the other to enforce the provisions of this Agreement, the prevailing party from such dispute shall be entitled to recover its attorney's fees and court costs arising from such dispute, together with any fees or costs incurred in determining the amount of fees to be recovered. As used in this subsection the term "prevailing party" means the party prevailing on the substantial matters of law in such legal action.

9.5 All notices under the Agreement must be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail;

the day after it is sent, if sent for next-day delivery by recognized overnight delivery service; or upon receipt, if sent by certified or registered mail, return receipt requested. Client's contact information for purposes of legal notices is as set forth in publicly available information or as provided by the Client from time-to-time. Either party may update its contact information for purposes of notice by giving notice of the same to the other party as provided for herein.

9.6 The Agreement shall be governed by the laws of the State of Florida without regard to its conflict or choice of law principles. Venue for any legal action or other proceeding arising from or relating to the Agreement shall be proper, convenient, and exclusive in Volusia County, and both parties hereby expressly and irrevocably consent to the personal jurisdiction of the courts thereof over each party. The parties expressly agree that the Agreement shall be considered to have been made and entered into in such county.

9.7 CLIENT HEREBY EXPRESSLY AND IRREVOCABLY WAIVES CLIENT'S RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION ARISING FROM OR RELATING IN ANY WAY TO THE AGREEMENT.

9.8 Client hereby expressly, absolutely, and irrevocably waives all defenses, whether arising in equity or at law, which may now or hereafter be available to Client, as to the validity and enforcement of this Agreement, including, but not limited to duress, estoppel, failure or lack of consideration, fraud, misrepresentation, lack of capacity, unconscionability, unclean hands, or undue influence. Client expressly agrees that all provisions of this Agreement are necessary and reasonable.

9.9 Should any provision of this Agreement be held by a court of competent jurisdiction to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The parties further agree that any such court is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement or by making such other modifications as it deems warranted to carry out the intent and agreement of the parties as embodied herein to the maximum extent permitted by applicable law. The parties expressly agree that this Agreement as so modified by the court shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been set forth herein.

9.10 This Agreement shall be binding upon and inure to the benefit of each party's respective heirs, successors, and assigns.

9.11 The language used in this Agreement will be deemed the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against either party.

9.12 This Agreement is not exclusive. Accordingly, nothing contained in this Agreement shall be deemed or construed as a limitation on Provider's right to work with and perform services similar or identical to the Services for other persons and entities, including competitors of Client, subject to the confidentiality provisions in this Agreement.

9.13 Nothing in this Agreement shall be construed so as to reduce, restrict, limit, negate, or abridge Provider's right to collaborate with, share information related to the Services with, and subcontract all or part of the Services to its preferred contractors, which right is expressly affirmed and acknowledged by Client.

9.14 Notwithstanding anything to the contrary contained in this Agreement, except for an action by Provider against Client arising from or related to nonpayment of sums owed to Provider hereunder, neither party may commence litigation against the other party without providing written notice and demand to the other party setting forth the matters and amounts (if applicable) in dispute, and without first attempting in good faith to mediate the dispute before a certified mediator in Volusia County.

*****TERMS UPDATED 10-01-2025*****