

Digital Marketing Service Agreement

Issue Date: 1 February 2024

Revision: 11

Welcome to RAS Digital Marketing's Terms and Conditions.

1. INTRODUCTION

- 1.1. This Agreement, formed between RAS Digital Marketing ("Provider") and the Client ("Client"), collectively referred to as the parties ("Parties"), aims to establish terms for digital marketing services, the ("Service") provided by the Provider to meet the Client's digital marketing needs while outlining the Parties role's in ensuring successful implementation of the Service.
- 1.2. The Provider, holding the registration number 2019/191867/07 is based in Cape Town, South Africa, 8001, and is accessible online at www.rasdigitalmarketing.com for contact and further information.
- 1.3. The Parties mutually acknowledge and agree that their relationship shall consistently abide by the principle of good faith. The Parties commit to fulfilling their responsibilities with professionalism, transparency, mutual respect, and consideration towards one another.
- 1.4. Except as specifically outlined in this Agreement, this Agreement does not establish an agency, partnership, or joint venture relationship between the Parties. Neither party has the authority to bind the other to any obligations, except as expressly specified in this Agreement.

2. INTERPRETATION

- 2.1. In this Agreement, unless clearly inconsistent with or otherwise indicated by the context, the following expressions bear the meanings set out hereunder:
 - 2.1.1. "Agreement" means the agreement set out in this document together with all annexures hereto;
 - 2.1.2. "Client" means the natural person or entity to whom and/or on whose behalf the Provider supplies the Service;
 - 2.1.3. "Companies Act" means the Companies Act No. 71 of 2008 of South Africa as amended from time to time;

- 2.1.4. “Data message” means a data message as defined by the Electronic Communications and Transactions Act No. 25 of 2002, including but not limited to an email message;
- 2.1.5. “Digital Assets” means any valuable digital marketing assets like online content or media, such as documents, images, videos, and audio files that are discoverable;
- 2.1.6. “Electronic Signature” shall mean an electronic signature as defined by the Electronic Communications and Transactions Act No. 25 of 2002;
- 2.1.7. “Personal Data” means personal data as defined in the Protection of Personal Information Act No.4 of 2013;
- 2.1.8. “Project Plan” means a simple roadmap detailing strategy, timelines, and actions to meet the Client’s online marketing goals.
- 2.1.9. “Proposal” means a digital marketing proposal that outlines an online marketing strategy for approval or collaboration.
- 2.1.10. “Service” means digital asset development and or digital marketing services all designed, developed, procured, or supplied by the Provider;
- 2.1.11. “Third Party Services” means services obtained by the Provider from individuals or entities, whether domestic or international, other than the Provider, for the Client's benefit.
- 2.1.12. “Working Day” means any day other than a Saturday, Sunday, or public holiday in the Republic of South Africa.
- 2.2. Any reference to the singular includes the plural and vice versa, any reference to natural persons includes legal persons and vice versa.
- 2.3. The clause headings inserted into this Agreement have been inserted for convenience only and shall not be considered in its interpretation.

3. SERVICE SCOPE

- 3.1. The Service is divided into two components: digital asset services, which include websites, social media pages, various content formats, email campaigns, paid advertising Materials, SEO strategies, lead magnets, branding elements, and analytics tools, where marketing services, leverage these digital assets. This includes employing tactics like content marketing, SEO, social media marketing, email marketing, and PPC advertising to engage customers, drive traffic, and accomplish marketing objectives, depending on the customer's purchase as outlined in the Invoice.
- 3.2. Both digital assets and marketing services can be purchased together depending on the Client’s digital marketing needs.

- 3.3. Any additional custom work requested by the Client beyond the scope of the Service will be subject to separate charges billed hourly. The Provider will provide an estimate of the expected hours required for the custom work, and the Client must approve the estimate before work commences. Payment for custom work will be invoiced separately and is due upon receipt of the Invoice.

4. COMMENCEMENT AND DURATION

- 4.1. This Agreement becomes effective upon signature by both parties and receipt of full payment as indicated by the Invoice.
- 4.2. The Client acknowledges that digital asset services are managed by short-term contracts, while the marketing service entails a six-month initial commitment, automatically renewing on a monthly basis thereafter.
- 4.3. Clients may request temporary suspension of campaign ad budgets for valid reasons, subject to Provider consent, and are required to continue invoice payments during the suspension.

5. PROVISION OF MATERIALS

- 5.1. Within the scope of this Agreement, "Material" includes, but is not limited to, content types such as text, images, videos, audio, digital files, social media posts, URLs, and marketing materials intended for utilisation in the Service across various online platforms.
- 5.2. Upon initiating the Service, the Client must accurately complete an online marketing form and submit all necessary Materials and information as required by the Provider.
- 5.3. If the Client fails to submit the required marketing form and Materials within 14 days, the Provider is absolved of its commitment to deliver the Service within the initially agreed timeframe. Upon receipt of all necessary Materials and information, the Provider will adjust resources to proceed with the project, establishing new timelines and potentially incurring additional costs for project resumption. A continued lack of satisfactory communication from the Client will result in the forfeiture of the Service, with no entitlement to refunds or the option to transfer services. Marketing services are required to be utilised within a one-month window; failure to do so will lead to the forfeiture of the Service for that month.
- 5.4. The Client gives the Provider a non-exclusive, worldwide, royalty-free license to use the Materials in delivering the Service, under the condition that this use complies with the required laws and regulations.
- 5.5. The Client assures they have the rightful ownership or necessary permissions for using the Materials in the Service, ensuring compliance with intellectual property rights, including content, trademarks, and privacy rights. The Client also

guarantees that the use of these Materials does not infringe upon the rights of third parties as per the applicable copyright laws.

- 5.6. The Client agrees to indemnify the Provider against any claims or losses resulting from the use of the Materials in the Service.

6. MATERIAL CREATION & CHANGES

- 6.1. The Provider commits to create Materials that comply with established digital marketing norms and adhere to the guidelines set by applicable advertising standards and relevant third-party platforms. Additionally, when possible, the Provider will integrate the Client's Materials into the content being created.
- 6.2. At the Provider's request, the Client is entitled to one free review and may request changes to the Materials, which the Provider will make a defined effort to accommodate, the changes required.
- 6.3. The Client acknowledges that any changes to the Materials may impact the timeline and delivery of the Service and agrees to discuss and mutually agree on any necessary adjustments to the project timeline.
- 6.4. If the Client fails to adequately respond to the Provider's request for review within 14 days, the Provider is absolved of its commitment to deliver the Service within the initially agreed timeframe. Upon receipt of all necessary Materials and information, including satisfactory responses, the Provider will adjust resources to proceed with the project, establishing new timelines and potentially incurring additional costs for project resumption. A continued lack of satisfactory response from the Client will result in the forfeiture of the Service, with no entitlement to refunds or the option to transfer services. Marketing services are required to be utilised within a one-month window; failure to do so will lead to the forfeiture of the Service for that month.
- 6.5. If the Client requires further reviews or modifications beyond the initial complimentary review, the Provider will impose an extra charge at an hourly rate.
- 6.6. The Client acknowledges and agrees that ownership of any digital assets and/or Materials transfers to them only upon full payment. In case of non-payment and contract termination, access to digital assets or Materials will be revoked for the Client.

7. THIRD-PARTY PLATFORMS

- 7.1. The Client grants the Provider agent-level access to third-party platform accounts for campaign and content management under this Agreement. However, this access excludes viewing or managing credit card details or making payments. Financial responsibilities remain solely with the Client for all third-party platforms, and the Provider cannot execute transactions. Access is secure, with both parties ensuring data integrity and security.

- 7.2. The Client acknowledges and will comply with additional terms and conditions of third-party platforms. The Client commits to reviewing and understanding these third-party terms before granting access to ensure informed compliance.
- 7.3. The Client acknowledges that their third-party platform accounts may have pre-existing policy violations or access issues. The Provider will notify the Client of any discovered issues during access attempts. Account restoration incurs an hourly fee with no guaranteed success, and no refunds for investigative work regardless of outcome. Unsuccessful restoration requires rebuilding the asset at an additional cost.
- 7.4. Should the Client lack the required third-party platforms, the Provider can offer a comprehensive Onboarding Service for the setup of relevant accounts and business managers and pages. The specifics of this service, including the costs, will be detailed separately in a quotation and subsequent invoice based on the Client's approval.
- 7.5. The Client accepts that third-party platforms may independently alter the Materials used in some of their placements, which falls beyond the Provider's control. The Provider will inform the Client of any such modifications that are brought to their attention.
- 7.6. The Client is responsible for all third-party platform fees, ensuring timely payment in accordance with the platform's payment terms. The Provider will not be involved in payment disputes with third-party platforms.
- 7.7. The Client agrees that the Provider bears no responsibility or liability for the performance, policies, or actions of third-party platforms or for the Client's own actions that may affect the Service. However, this does not absolve the Provider of liability for actions that are directly within the Provider's control and remit.
- 7.8. The Provider operates at an agent-level on the Client's third-party platforms, executing actions based solely on the Client's directives and objectives. The Provider requires clear, documented directives from the Client to act upon, and the Client acknowledges that the Provider is not responsible for the independent operation of the third-party platform.
- 7.9. The Provider will exert reasonable efforts, as understood in the digital marketing industry, to deliver the Service. However, the Provider will not be held liable for any adverse outcomes or results stemming from the use of third-party platforms, provided that they have adhered to the standard of care and diligence expected from a provider in similar circumstances.
- 7.10. The Provider's role with third-party platforms is limited to actions within the scope of the Client's directives. The Provider is not responsible for the financial aspects of third-party platforms, including the payment of fees and management of the Client's financial accounts within such platforms.

8. FEES AND PAYMENT

- 8.1. Upon the Client's acceptance of the quotation and signing of this Agreement, the Provider will generate an Invoice for the advance payment of the selected services. The preferred payment method is Electronic Funds Transfer (EFT) which must be paid within 7 days.
- 8.2. Failure by the Client to pay the Invoice as requested shall result in the Provider sending reminders or follow-up notices and applying late fees or interest charges as stipulated in the Agreement. The Provider reserves the right to pursue legal action against the Client to recover outstanding amounts, including associated costs.
- 8.3. Payment for services may be made in South African Rand (ZAR), United States Dollars (USD), or any other international currency as agreed upon in writing between both parties. The Client shall ensure that the amount specified on the Invoice is the net amount received by the Provider, with the Client being responsible for any incurred international transfer fees.
- 8.4. In this Agreement, asset development service invoicing follows short-term contract durations. The Provider may agree to split payments for quotations exceeding \$10,000, with a larger upfront payment and the balance due upon Service completion, formalised in writing when applicable.
- 8.5. The billing for marketing services under this Agreement follows the details specified in the Invoice. Recurring fees for the contract are billed monthly, starting from the date of the initial Invoice and continuing throughout the contract term, which may last either six or twelve months. Any services not covered in the initial agreement will be billed separately.
- 8.6. Should there be a delay in payment, the Client will be issued reminders, with a final notice sent 14 days post the Invoice due date. If payment has not been received by the final notice, the Client may incur interest on the outstanding amount at a rate of 5%, to compensate for the delay.
- 8.7. The Provider is not currently VAT registered and therefore does not charge VAT. Should the Provider become VAT registered during the term of this Agreement, the Client will be promptly notified in writing. Following VAT registration, all subsequent Invoices will include VAT at the prevailing rate as mandated by South African tax laws. The Client will be responsible for the payment of such VAT.

9. REFUNDS

- 9.1. Payments for services provided by the Provider are non-refundable. The Client understands that payments are made in return for the completion of work and not based on any particular results. Consequently, no refunds will be given for services that have been started and carried out in good faith.

- 9.2. The terms regarding refunds shall remain in effect even after the termination or expiration of this Agreement.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. The Client will exclusively own all original Materials and content specifically created for them during the Service, upon full payment. The Provider retains the right to reuse general knowledge, skills, methods, and experience gained, without violating this Agreement.
- 10.2. The Provider will obtain necessary permissions for third-party intellectual property where applicable used during the creation of the Materials. The Client will be granted a usage license under specific terms, including duration, scope, and restrictions, in writing.
- 10.3. In case of a verified infringement, the Provider will take corrective action, which may include modifying or discontinuing the Materials. The Provider's liability is limited to actions within their direct control, and it does not extend to modifications made by the Client or misuse of the Materials in violation of this Agreement.
- 10.4. In the event of an intellectual property infringement claim, the Provider will consult with the Client to amend the Materials as necessary. This may involve redesign or replacement of the disputed content. Costs associated with such amendments, unless due to Provider's initial non-compliance, will be borne by the Client.
- 10.5. The Client shall hold the Provider harmless from any losses arising from the Client's failure to adhere to the Intellectual Property clause outlined in this Agreement or the improper use of third-party licenses.
- 10.6. Upon termination of this Agreement, the Client is granted a non-exclusive, permanent license to use all original Materials and content created specifically for them during the Service. This license does not extend to any software, themes, or other third-party materials that require annual renewals for updates, which the Client must maintain separately according to the respective third-party terms and licensing agreements. The Provider is not liable for any termination of these licenses initiated by third parties.

11. VOLUNTARY ADVICE

- 11.1. The Client understands and agrees that any advice and information given by the Provider are offered without charge, in good faith, and reflect the Provider's current understanding and knowledge. The Provider is not responsible for any loss or damage resulting from potentially inaccurate information or delays in communicating information or instructions.

12. NON-SOLICITATION

- 12.1. During this Agreement and for twelve months after its end, the Client must not hire or seek to hire any Provider's employee or contractor involved in the Service, without the Provider's written consent.
- 12.2. If the Client violates this clause, the Client must pay the Provider an amount equal to three months of the full-time gross salary of the involved employee or contractor at their latest pay rate.

13. DATA PROTECTION AND PRIVACY

- 13.1. The Provider will comply with applicable data protection and privacy laws in relation to any personal data processed during the provision of the Service.
- 13.2. The Client will ensure that the Provider is provided with Personal Data in compliance with privacy laws and regulations and that the necessary consent has been obtained for its use in the Service.

14. FORCE MAJEURE

- 14.1. Neither party shall be liable for any failure or delay in performance under this Agreement due to circumstances beyond their reasonable control, including but not limited to acts of God, wars, riots, terrorist acts, epidemics, pandemics, or government actions.

15. NON DISCLOSURE & CONFIDENTIALITY

- 15.1. Each party, known as the "Restricted Party," agrees to maintain the confidentiality of all sensitive information about the other party. This includes but is not limited to, client details, trade secrets, and business strategies. The Restricted Party must ensure that its employees and agents also adhere to these confidentiality obligations. The following exceptions apply:
 - 15.1.1. Disclosure is required by law.
 - 15.1.2. Professional advisors or regulatory bodies request information in connection with potential investments.
 - 15.1.3. Information is shared with employees, agents, or advisors who need to know for Agreement compliance, under the condition that they are informed about and agree to uphold these confidentiality obligations.
 - 15.1.4. The other party provides prior written consent.
- 15.2. Both parties commit to protecting any personal data processed under this Agreement in line with specific data protection laws. Unauthorised disclosure of such data is strictly prohibited.
- 15.3. These confidentiality obligations will continue to apply beyond the termination of this Agreement. Additionally, upon termination or at the request of the disclosing

party, the receiving party shall either return or securely destroy all Materials containing confidential information.

16. TRANSFER OF RIGHTS

16.1. The Client shall not cede, assign, or transfer any of its rights or obligations in terms of this Agreement without the prior consent in writing of the Provider.

17. TERMINATION

17.1. Both parties have the right to terminate the Agreement at the end of any contract period, on condition that a 30-day notice is issued in writing and that all outstanding payments are settled.

17.2. Should the marketing service consistently fail to meet the campaign goals over the first 3 months, as shown by monthly reports, the Provider is obligated to diagnose the underperformance and execute an amended marketing strategy at no additional cost or recommend the termination of the underperforming campaign.

17.3. Immediate termination is permissible by either party if the other commits a significant breach or experiences insolvency, bankruptcy, or liquidation. The breaching party has 15 days to remedy the breach after written notice. Failure to remedy allows the non-breaching party to terminate, with all outstanding payments due.

17.4. Upon termination, the Client must settle payments for services rendered up to the termination date. Upon termination, effective immediately, the Provider will relinquish agency control over all related third-party platforms, accounts, and assets.

17.5. Termination does not affect accrued rights. Confidentiality, intellectual property rights, liability, and indemnification clauses remain in force post-termination.

18. GOVERNING LAW

18.1. This Agreement is governed by South African law, and both parties shall comply with all relevant international, national, and regional laws related to this Agreement.

18.2. Should a conflict arise between South African law and international regulations, South African law shall prevail, and both parties will reasonably endeavour to align with and adhere to both sets of laws to the extent feasible.

19. LIABILITY

19.1. The Client is responsible for communicating any risks associated with their products, services, and Materials used in the Service. This includes completing the online marketing form with any known risks at the initiation of the Service

and providing written notification to the Provider of any new or evolving risks, potential issues, or legal constraints within 48 hours of their identification.

- 19.2. The Provider's liability is limited to managing the Service and does not extend to undisclosed risks, legal violations by the Client, or any third-party claims related to the Service.
- 19.3. The Client indemnifies the Provider against losses resulting from reliance on the Client's incomplete, inaccurate, or legally problematic information and against third-party claims affecting the Service. This indemnification includes any claims, damages, losses, liabilities, and legal fees.
- 19.4. In the event of third-party disruptions or impacts, the Provider is not liable, but provisions for the Service adjustment or renegotiation may apply. Additionally, the Client agrees to comply with all applicable laws and regulations in their performance under this Agreement. Breach of these laws and regulations by the Client will result in the Client being solely responsible and indemnifying the Provider against any resulting claims, losses, damages, liabilities, and legal fees.
- 19.5. The Client must maintain appropriate insurance to cover claims related to the Services. This includes general and professional liability. In the event of a claim, the Client's insurance is the primary source of coverage. Failure to maintain this insurance results in the Client being solely responsible for all related claims, absolving the Provider of any financial or legal liability.

20. WARRANTIES

- 20.1. The Provider offers the Service without any express or implied warranties regarding results or outcomes. The Client recognises that the Service's effectiveness is subject to variables outside the Provider's control such as product or service demand, market trends, consumer behaviour, and competition.
- 20.2. The Provider explicitly disclaims all warranties to the fullest extent permitted by law, including warranties of merchantability, fitness for a particular purpose, and non-infringement. Any discussions or promotional Materials presenting potential Service results are purely informational and do not represent guarantees.
- 20.3. The Client accepts full responsibility for assessing the Service's relevance and alignment with their needs and goals. The Provider does not assure that the Service will meet the Client's expectations or stated requirements.
- 20.4. The Client agrees that any claim or dispute related to the Service is governed by the limitations of liability and the indemnification terms detailed within this Agreement.
- 20.5. It is the Client's duty to maintain adequate insurance for their products or services, particularly for those considered high-risk or sensitive, to cover potential liabilities or losses.

- 20.6. The limitations on warranties and liabilities presented here are upheld to the maximum extent permitted by law. The Client concedes that the distribution of risk defined in this Agreement is fair and a fundamental element of the negotiated terms.
- 20.7. This Warranty Clause overrides all prior discussions, agreements, and understandings related to the Service's warranties and guarantees, establishing this document as the definitive record of the parties' agreement.

21. NOTICES

- 21.1. Except for any specific communication and reporting requirements stated elsewhere in this Agreement, all notices, or other documents to be given under this Agreement must be provided in writing and shall:
 - 21.1.1. if delivered by courier service be deemed to have been duly received by the addressee on the date of delivery;
 - 21.1.2. If sent by email to the correct address, it's deemed received within one hour during business hours (08:00 - 16:00) on any business day or by noon on the following business day if sent outside of those hours.
- 21.2. Regardless of any provisions to the contrary in this Agreement, a written notice or communication that is received by one party from the other, including communication through electronic mail, shall be considered sufficient written notice or communication to the receiving party.

22. DISPUTE RESOLUTION

- 22.1. Any claim or dispute arising from the Service must be formally submitted in writing within 14 days of the occurrence of the event leading to the dispute or claim. This initial notification is a prerequisite for further dispute resolution proceedings.
- 22.2. Upon the emergence of any dispute between the Parties, both shall first attempt to resolve it through good-faith negotiations, striving for a mutually agreeable solution.
- 22.3. If the dispute remains unresolved through negotiation within a reasonable timeframe, the Parties agree to proceed to mediation. Should mediation not resolve the issue, either Party may escalate the dispute to binding arbitration, to be conducted under the rules of the Arbitration Foundation of Southern Africa. During the mediation phase, each Party will bear its own costs.
- 22.4. Each Party is responsible for bearing its own costs and expenses, including attorney's fees, incurred during the arbitration proceedings. This responsibility extends to any costs associated with their representation and other related legal expenses.

22.5. The arbitration proceedings will take place in Cape Town, South Africa, and will be conducted in English.

23. SEVERABILITY

23.1. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be severed from this Agreement, and the remaining provisions shall remain in full force and effect.

24. WAIVER

24.1. Any failure or delay by the Provider to enforce any provision of this Agreement shall not be deemed a waiver of such provision or of the right to enforce such provision.

25. AMENDMENTS / VARIATIONS

25.1. The Client acknowledges and agrees that the Provider reserves the right to periodically amend its Terms and Conditions to accommodate changing circumstances. The Client further acknowledges that these revisions may impact the existing Agreement.

25.2. The Provider will post any updates to the Terms and Conditions on its website, clearly labelled with a unique revision number and the date of publication. The Client will receive notification by email of such updates before they become effective. The notice will detail the significant changes to ensure the Client is well-informed about the implications of the amendments.

25.3. The Client understands that any changes or amendments to the terms and conditions of this Agreement will become effective following the conclusion of their current contract term, whether that term is twelve, six or one month. By continuing the contract beyond the current term, the Client implicitly agrees to these changes. However, the Client has the right to object to these changes in writing, which may impact the continuation or terms of the Agreement.

26. ENTIRE AGREEMENT

26.1. This Agreement, as amended from time to time, constitutes the entire agreement between the Parties.

26.2. Any previous understandings, agreements, or representations regarding the provision of the Service are superseded by this document.

27. APPOINTMENT

27.1. The Client hereby appoints the Provider to implement the Service as outlined in this Agreement and the Invoice and the Provider hereby agrees to accept such appointment on terms and conditions as contained in this Agreement.

28. SIGNATORIES TO THE AGREEMENT

| Provider | Client |
|--|---|
| Company Name: RAS Digital Marketing (Pty) Ltd | Company Name: |
| Company Representative: Full Name: Job Title: | Company Representative: Name: Job Title: |
| Contact Details: info@rasdigitalmarketing.com +27 21 424 7722 | Contact Details: Email: Phone No: |
| Signature: | Signature: |
| Date of Signature: | Date of Signature: |
| Contract Start Date: | |
| Contract End Date: | |