

AGENCY SOLUTIONS PROGRAM AGREEMENT TERMS AND CONDITIONS

1. Program.

- (a) Participation in the Program provides the Agency access to Web.com products and services as made available under the Program for resell to the Agency Customers and is governed by the Master Service Agreement located at <http://legal.newfold.com> (the "MSA"), these Terms and Conditions and the Program Guide. Web.com may change the product and service offerings and pricing at any time in its sole discretion. Web.com reserves the right to refuse fulfillment of products and services for any reason, including but not limited to our family friendly policy found at <http://legal.newfold.com>.
- (b) **Eligibility Requirements:**
 - a. Participation in the Web.com Agency Solutions Program is by invitation only and limited to select agencies based on region and vertical focus. This offers Agencies a unique selling proposition when competing for business. To be an Agency you must fall into one of two categories:
 - 1. **Agency:** Advertising Agency, Creative Shop, Web Design and Development, Public Relations, Market Research, Media House
 - 2. **Certified Agency:** Independent Agency whom is qualified based upon their industry experience
- (c) Web.com may modify these Terms and Conditions, the Master Services Agreement ("MSA"), and the applicable Program Guide from time to time in its sole discretion, which modifications will be effective upon posting to Web.com's website.
- (d) The Acceptance Agreement, the Program Application, the Program Guide, MSA, and this Agreement collectively form a single contract between Web.com and the Agency. The Acceptance Agreement, Program Application and Program Guide, as each may be modified or amended from time to time, in Web.com's sole discretion, are each incorporated herein by this reference.

2. Wholesale Pricing, Invoicing, Collection and Taxes.

- (a) **Wholesale Pricing.** Web.com will provide Agency the applicable discount pricing set forth in the Program Guide, as may be modified by Web.com from time to time, in its sole discretion (the "Discount") for each order for Services attributed to Agency (each, an "Order"). Agency shall bear all taxes, duties, levies, and other similar charges (and any related interest and penalties), however designated or imposed on it as a result of the existence or operation of the Program, including any income, sales, or use tax on profits which may be levied against it.
- (b) **Monthly Invoices.** On or before the 10th business day of each month, Web.com will invoice Agency (a) for Services provided to each Agency Customer for the then-current month, based upon the Agency Customers in place as of the last business day of the immediately preceding month and (b) for Services provided during the immediately preceding month to those Agency Customers not in place as of the last business day of the month preceding such immediately preceding month. All invoices submitted by Web.com will be due and payable in full within thirty (30) days of receipt of the invoice. Amounts not paid when due will bear interest at the rate of 1.5% or the highest interest rate permitted by law, whichever is less, until paid in full.
- (c) **Credit Card Payment.** All credit cards payments are subject to the terms set forth herein MSA.

3. Term and Termination.

- (a) Agency's participation in the Program will begin on the date of the Acceptance Agreement sent by Web.com to Agency (the "Acceptance Date"). The Agreement will continue until the first anniversary of the Acceptance Date ("Initial Term"). Thereafter, the Agreement will renew automatically for successive periods of one year unless either party gives notice to the other party of non-renewal at least 30 days prior to expiration of the then-current term.
- (b) Either party may terminate this Agreement at any time for any reason by giving notice to the other party at least thirty (30) days prior to the effective date of termination.
- (c) If Agency is inactive for more than six (6) consecutive months, then the agreement may be terminated by Web.com without prior notice.

4. License to Web.com.

Web.com hereby grants to Agency a non-exclusive, revocable, royalty-free, worldwide right and license during the term of this Agreement to post a copy of Web.com's name and logo, and maintain a hypertext link to Web.com's website, (a) on a page in the Agency website where strategic Agencies are listed and (b) on such other pages on the Agency website as may be specified in the Acceptance Agreement. Agency shall, at all times, comply with the Web.com brand usage guidelines, which may be modified by Web.com from time to time in its sole discretion.

4. Advertiser or Person Account Termination.

Web.com may cancel any individual Advertiser or Person account immediately for any reason it deems necessary, and will use reasonable efforts to give notice of the same to Agency. Agency may cancel any of the Web.com Services for an Advertiser or Person at any time per the individual Web.com Services published terms and conditions.

5. Agency's Responsibilities.

- (a) Agency will conduct itself in a professional manner and will maintain a reputation for fair dealing and exemplary service among its customers or clients. Agency will not make any statement, or take any action, that could reasonably be expected to reflect poorly on Web.com or on the reputation of Web.com or its products and services.
- (b) Agency will cause its personnel who are responsible for Agency's activities under this Agreement to remain well-informed concerning Web.com's products and services. Among other things, Agency will cause such personnel to review Web.com's website occasionally to ensure that such personnel are reasonably familiar with Web.com's product offerings, pricing, promotions and service terms and conditions.
- (c) Google Specific Requirements. Agencies participating in search marketing Pay-Per-Click campaigns are required to adhere to the same rules of transparency that Google requires of Web.com. The rules are set forth in the Program Guide, which may be modified by Web.com, from time to time, in its sole discretion.
- (d) Agency will immediately notify Web.com of any change in Agency's mailing address, telephone, e-mail or other contact information. In the event Web.com receives a complaint regarding Agency's account including without limitation, any complaint from an Agency End-User claiming that the Agency is unresponsive, Web.com will refer the complaint to Agency using the telephone, e-mail or other contact information listed in Agency's account. In the event Web.com is unable to contact Agency after making 5 or more attempts in any 15 business day period, Web.com may in its sole discretion, terminate Agency's account and/or convert Agency's End-Users to Web.com customers.

- (e) Agency will be solely and entirely responsible for its contracts with Agency Customers and for providing any service, support or assistance that the Agency Customers may be entitled to receive. Agency will be solely and entirely responsible for establishing the price of any Services sold to Agency Customers and for billing and collecting all amounts from Agency Customers. The failure of any Agency Customer to pay any amount due or observe any contractual requirement to Agency will not excuse Agency's prompt and complete performance of its obligations under this Agreement. Agency will make no representations, warranties, undertakings or commitments on behalf of Web.com.

6. Web.com Intellectual Property.

- (a) If the applicable Program Guide gives Agency the right to utilize any demonstration software programs, materials or other demonstration tools (collectively, "Demonstration Tools"), Web.com hereby grants to Agency a non-exclusive, non-transferable, royalty-free license, exercisable solely during the term of this Agreement, to use applicable Web.com Technology solely for the purpose of accessing and using the Demonstration Tools. Agency may not use the Web.com Technology for any purpose other than accessing and using the Demonstration Tools. Except for the rights expressly granted above, this Agreement does not transfer from Web.com to Agency any Web.com Technology, and all rights, titles and interests in and to the Web.com Technology shall remain solely with Web.com. Agency shall not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from any of the Web.com Technology.
- (b) Web.com's trademarks, trade names, service marks, logos, other names and marks, and related product and service names, design marks and slogans are the sole and exclusive property of Web.com. Except as otherwise provided in the Agreement, Agency may not use any of the foregoing in any advertising, publicity or in any other commercial manner without the prior written consent of Web.com.
- (c) Any feedback, data, answers, questions, comments, suggestions, ideas or the like which Agency sends to Web.com relating to the Services will be treated as being non-confidential and non-proprietary. Web.com may use, disclose or publish any ideas, concepts, know-how or techniques contained in such information for any purpose whatsoever.

7. Confidentiality; Non-Solicitation.

- (a) Each party will not, without the prior written consent of the other party, use or disclose to any Person any Proprietary Information of the other party disclosed or made available to it, except for use of such Proprietary Information as required in connection with the performance of its obligations or use of the Services hereunder. Subject to Section 7(b), each party will (i) treat the Proprietary Information of the other party as secret and confidential, (ii) limit access to the Proprietary Information of the party to those of its employees who require it in order to effectuate the purposes of this Agreement, and (iii) not disclose the Proprietary Information of the other party to any other Person without the prior written consent of the other party.
- (b) Notwithstanding Section 7(a), the following shall not be considered Proprietary Information: (i) any information that the receiving party can demonstrate by written documentation was within its legitimate possession prior to the time of disclosure by the disclosing party; (ii) any information that was in the public domain prior to disclosure by the disclosing party as evidenced by documents that were published prior to such disclosure; (iii) any information that, after disclosure by the disclosing party, comes into the public domain through no fault of the receiving party, (iv) any information that is disclosed to the receiving party without restriction by a third party who has legitimate possession thereof and the legal right to make such disclosure; or (v) any information that, two years after expiration or termination of this Agreement, does not constitute a trade secret under applicable law.

- (c) Each party acknowledges that disclosure of any aspect of the Proprietary Information of the other party shall immediately give rise to continuing irreparable injury to the other party inadequately compensable in damages at law, and, without prejudice to any other remedy available to the other party, shall entitle the other party to injunctive or other equitable relief. Upon expiration or termination of this Agreement for any reason, each party shall promptly return to the other party all Proprietary Information of the other party (including all copies thereof) in its possession or control.
- (d) During the term of this Agreement and for two years following expiration or termination of this Agreement, Agency will not, directly or indirectly, solicit or recruit the services of any employee of Web.com performing services under this Agreement, while such employee is employed by Web.com and for a period of six months after such employee has left the employment of Web.com.

8. Miscellaneous.

- (a) **Mandatory Arbitration.** Each party agrees that any dispute between the parties arising out of this Agreement or in any manner relating to the Services must be submitted by the parties to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association before a single arbitrator, appointed in accordance with such rules, who shall render a reasoned opinion. Judgment upon the award may be entered in any court having jurisdiction thereof. Any such arbitration will be held in Jacksonville, Florida. Any action filed by either party in any court in violation of this Section should be dismissed pursuant to this Section.
- (b) **Entire Agreement; Amendments.** This Agreement, including documents incorporated herein by reference, supersedes all prior discussions, negotiations and agreements between the parties with respect to the subject matter hereof, and this Agreement constitutes the sole and entire agreement between the parties with respect to the matters covered hereby. In case of a conflict between this Agreement and any purchase order, service order, work order, confirmation, correspondence or other communication of Agency or Web.com, the terms and conditions of this Agreement shall control. No additional terms or conditions relating to the subject matter of this Agreement shall be effective unless approved in writing by any authorized representative of Agency and Web.com. This Agreement may not be modified or amended except by another agreement in writing executed by the parties hereto; provided, however, that these Terms and Conditions may be modified from time to time by Web.com in its sole discretion, which modifications will be effective upon posting to Web.com's website.
- (c) **Notices.** All notices and demands required or contemplated hereunder by one party to the other shall be in writing and shall be deemed to have been duly made and given upon date of delivery if delivered in person or by an overnight delivery or postal service, upon receipt if delivered by facsimile the receipt of which is confirmed by the recipient, or upon the expiration of five days after the date of posting if mailed by certified mail, postage prepaid, to the addresses or facsimile numbers (i) for the Agency, denoted in the Program Application, and (ii) for Web.com, as designated on Web.com's website for the giving of notices. Either party may change its address or facsimile number for purposes of this Agreement by notice in writing to the other party as provided herein.
- (d) **Limitation of Actions.** No action, regardless of form, arising by reason of or in connection with this Agreement may be brought by either party more than two years after the cause of action has arisen.
- (e) **Counterparts.** If this Agreement is signed manually, it may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. If this Agreement is signed electronically, Web.com's records of such execution shall be presumed accurate unless proven otherwise.

- (f) **Marketing.** Agency agrees that during the term of this Agreement Web.com may publicly refer to Agency, orally and in writing. Any other public reference to Agency by Web.com requires the written consent of Agency.
- (g) **Non-Exclusive; Distribution.** This Agreement is non-exclusive and either party may provide web services to, or obtain web services from, parties other than the parties to this Agreement. Agency may sell the Services only to Agency Customers who are end-users of the Services. Agency may not sell the Services to resellers or distributors.

9. International Provisions. If Agency maintains an office outside the United States, conducts business with Persons other than U.S. citizens, or at any time offers to resell Services to any Person that is not a U.S. citizen, the following provisions will apply:

- (a) Agency will comply with all laws relating to the conduct of business practices which prohibit any gratuities or inducements. Agency acknowledges that Web.com is subject to certain United States laws, including but not limited to the Foreign Corrupt Practices Act of 1977 and any amendments thereto, which apply to activities carried out on Web.com's behalf outside the United States. Agency agrees neither to take nor omit to take any action if such act or omission might cause Web.com to be in violation of any such laws. Upon written notice from Web.com, Agency shall provide such information as Web.com may reasonably consider necessary to verify compliance by Agency with the provisions of this section.
- (b) The Services may require a license for export from the U.S. Government which requires advance disclosure of the ultimate consignee and all parties to the sale, and prohibits diversion, transshipment, or re-exportation out of the United States contrary to U.S. law and regulations by any party. Agency agrees to furnish all documentation required by the U.S. Government in connection with obtaining any required export license, and agrees that unauthorized diversion, transshipment or re-exportation of the Web.com's Services in violation of the export license or any applicable law shall not be permitted.
- (c) The parties hereby exclude any application of the United Nations Convention on Contracts in the International Sale of Goods, the 1974 Convention on the Limitation Period in the International Sale of Goods, and the Protocol amending the 1974 Convention, done at Vienna April 11, 1980.

10. Definitions. For purposes of this Agreement, the following terms have the meanings specified below:

- (a) "Acceptance Agreement" means the Acceptance Agreement sent by Web.com to Agency, referencing the Program, the Program Guide and the Program Application.
- (b) "Agency Customer" means any Person that has entered into an agreement with Agency under which Web.com provides various Web.com Services.
- (c) "Web.com Technology" means Web.com's proprietary technology, including, without limitation, Web.com services, software tools, demonstration tools, hardware designs, algorithms, software (in source code and object code forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned by Web.com or licensed to Web.com from a third party), and also including any derivatives, improvements, enhancements, updates, modifications or extensions of Web.com Technology conceived, reduced to practice or developed during the term of this Agreement by either party.
- (d) "Person" means any individual, Partnership, joint venture, corporation, Limited Liability Company, trust, unincorporated association or organization, or government or any agency or political subdivision thereof.

- (e) "Program" means Web.com approved Agencies that resell available Web.com digital services to their end advertiser customers, as may be approved or rejected by Web.com at any time, at Web.com's sole discretion. The Web.com digital services available for resell will be listed in the Program Guide or can be obtained through the Agency's Agency Network Program Manager, in either case the Web.com digital services may be changed by Web.com from time to time, in its sole discretion.
- (f) "Program Guide" means the official program guide for the Program set forth as attached, as the same may be modified by Web.com from time to time, in its sole discretion.
- (f) "Proprietary Information" means all technical, business and other information of a party (i) that is not generally known to the public, (ii) that derives value, economic or otherwise, from not being generally known to the public or to other Persons who can obtain value from its disclosure or use, and (iii) which information is subject to efforts that are reasonable under the circumstances to maintain the secrecy thereof.
- (g) "Web.com Services" means the services resold to person by Agency, which are listed at www.web.com, which listed services may be changed from time to time, in Web.com sole discretion.