

Swoop Digital Service Agreement - Digital Marketing

[last updated August 2017]

1 Master Agreement

- 1.1 Terms and conditions of the Master Service Agreement are incorporated into and form part of this agreement.
- 1.2 Unless otherwise stated in this agreement, words have the meaning given to them in the Master Service Agreement.

2 What this agreement covers

- 2.1 This agreement covers digital marketing services (Services) provided by Swoop Digital in accordance with the Proposal.

3 Application

- 3.1 This is the agreement we use for delivering digital marketing services. We encourage you to read and understand the agreement as it explains what each of Swoop Digital and you are responsible for, and is designed to protect you as well as us.
- 3.2 By asking us to start work, signing this agreement or checking the 'I agree' box, you are agreeing to be bound by these terms.
- 3.3 These terms and conditions define our working relationship with you. Unless otherwise agreed to in writing by both parties, these terms apply from the date of our Proposal and cover all of the services you ask us to provide.
- 3.4 If there is any part of the Proposal that you do not understand, please let us know before agreeing to these terms.

4 Strategy

- 4.1 We will assist you to develop a digital marketing strategy as set out in the Proposal.
- 4.2 Development of an online marketing strategy may include business analysis, identifying the results to be measured, situation analysis, recommending platforms for your use, and designing marketing campaigns for email, social media or other platforms.
- 4.3 All marketing strategies take time, are tested, measured and changed incrementally to try and achieve the best results. What we do is dependent on how the third party platforms work. Those third party platforms may change without notice.
- 4.4 We cannot guarantee that your objectives will be met or that your results will be consistent or improve. We are not responsible for any loss or damage incurred by you as a result of changes made by third party platforms.

5 Third Party Platforms

- 5.1 Swoop Digital will recommend third party platforms for you to support your digital marketing strategy. Your third party provider has its own terms and conditions. It is your responsibility

to read the terms and conditions. You will need to establish an account, including adding your billing details.

5.2 If necessary (but not our preferred option):

- You authorise Swoop Digital to access or create, establish and configure accounts with third party platforms on your behalf to perform the Services. Swoop Digital will provide you with the full login and administration details of any account established on Your behalf.
- You authorise Swoop Digital to share your details with third party platforms to create accounts and perform the Services.

5.3 Your third party platform accounts will be accessible to you at all times.

5.4 You will be responsible for the cost of maintaining your third party platform accounts and agree to keep your billing details up to date. It is usual for the third party providers to automatically deduct any monthly cost from your nominated account. You are responsible for ensuring that there are sufficient funds available to cover any monthly billing.

5.5 You acknowledge that third party platforms may change their policies, algorithms, regulations or systems at any time. Swoop Digital cannot be held liable for loss or damage incurred by You as a result of changes made to third party platforms, this includes the closure of an account by the platform provider without notice or explanation.

6 Email marketing

6.1 Once we have identified the preferred email marketing automation system for you, you will need to establish an account, including adding your billing details.

6.2 You will need to add Swoop Digital as an authorised user on that account once established. We will provide the information you need to complete that process.

6.3 You authorise Swoop Digital to access your email marketing automation system so that we can set up the campaigns identified and agreed in your online marketing strategy.

6.4 You warrant that every customer on your database who will receive Your email campaigns has given their consent to receive electronic message from you, and that you will comply with relevant anti-spam legislation at all times.

6.5 All emails campaigns set up by Swoop Digital will have an unsubscribe facility, and you agree that you will not attempt to disable this function at any time.

6.6 You agree that any customers who opt to unsubscribe from emails will be removed from your database immediately, and not receive further emails.

6.7 You agree to indemnify, defend and hold harmless Swoop Digital against any loss, damage, costs or liability resulting from a third party claim in relation to your breach of this clause 6.

7 Google AdWords and SEO Optimisation

7.1 Search Engine Optimisation (SEO)

- SEO is governed by many factors which are outside the direct control of Swoop Digital or any other SEO company. Search engines are third party systems with unknown variables, algorithms and indexing decisions that can change at any time, and are outside our control.
- Swoop Digital will try to improve the position of your website in search engine results in response to identified search requests, but Swoop Digital does not warrant that this effort will be successful.
- In line with guidelines provided by Google, Swoop Digital offers no guarantee of getting your website ranked organically on any major search engine for your desired keywords.
- We cannot be held responsible for any changes to the position of your website in search engines results related to SEO services provided by us.

7.2 If you ask Swoop Digital to provide Google AdWords or SEO Optimisation services we may develop a list of keywords and advertising copy for your approval. It is possible to use the trade marks of other companies as keywords in the backend (not publicly visible) of your AdWords campaigns, but we take no responsibility for any legal results of doing so.

7.3 You agree to indemnify and hold Swoop Digital harmless against any claims made regarding the use of the keywords or advertising copy referred to in this clause 7.

7.4 You acknowledge that search engines may, at any time, change their ranking algorithm, exclude sites from their listings, or change their policies without notice and that such change may adversely affect your search engine ranking, for which you will indemnify Swoop Digital for any consequential loss.

7.5 Swoop Digital will not be held liable for any fluctuations, alterations, penalty or removal of your listing in the search engines.

8 Content Creation

8.1 At your request, Swoop Digital may design, create, write or edit content on your behalf. We may also purchase licenses to use themes, stock images, stock music or stock videos on your behalf.

8.2 Where Swoop Digital is to provide content, you undertake to review all material supplied by Swoop Digital to satisfy yourself that it does not infringe third party intellectual property rights, before approving that material for inclusion in your website.

8.3 All content created by Swoop Digital will be provided to you for approval, unless clause 8.5 applies. Before giving approval, you will have two (2) opportunities to ask for revision.

8.4 To request a revision:

- You have five (5) days to provide changes and comments after we send work to you for approval. If you do not provide a response, we will proceed as if no changes are required.
- Changes and comments must be provided in writing.
- Changes and comments must be provided in one complete brief and not multiple emails.

- We will consider each email about changes as a separate round (our quoted fee includes two (2) rounds of revision only).
- Extended revisions outside of this scope will be charged at our hourly rates.
- If a project is abandoned or suspended, an administration fee will apply to reactive that project.

8.5 You may authorise us to create content and conduct campaigns on your behalf without your direct involvement. We will carry out the work consistently with the objectives you have told us, and any work completed for you in the past. We act as your agent in this process and you indemnify Swoop Digital against any liability (including legal fees and costs) threatened or actual, arising from that work.

8.6 All intellectual property rights in content created on your behalf will transfer to you automatically upon payment in full for the Services delivered in the immediately preceding month.

9 Making changes

9.1 We will propose changes to your marketing strategy, or additional campaigns, for your approval prior to implementation. You have five (5) days to provide changes and comments after we send work to you for approval. If you do not provide a response, we will proceed as if no changes are required.

9.2 If you make changes to any campaigns or advertising through third party platforms without informing Swoop Digital, this could negatively affect results and costs. Swoop Digital will not be liable for any loss or damage arising as a result of your changes.

10 Account Billing

10.1 Our Services will be invoiced monthly and payable in advance, as set out in the Proposal.

10.2 The costs payable to Third Party Providers for any activities associated with those platforms will be incurred directly to your account and payable by you. In some instances, costs incurred through third party platforms will require credit card or direct debit payment. You agree to pay these costs and ensure that you have sufficient funds available for payment to occur.

10.3 In the event that you have insufficient funds in your account with any third party platform, Swoop Digital may be required to reset your accounts. You acknowledge that this may incur additional fees and charges that you will be responsible for.

10.4 Advertising budgets will be set in consultation with you. Swoop Digital will manage your agreed budget in good faith, but will not be held liable for actual spend.

- You acknowledge that a budget may be underspent when establishing and testing a new campaign, or for reasons beyond the control of Swoop Digital.
- You acknowledge that there may be an overspend on budget due to the conduct of the third party platform and for reasons beyond the control of Swoop Digital. In our experience, an overspend on a set budget is usually limited to less than 10%.
- Third party platforms for advertising are not generally set up for the addition of GST to advertising budgets. You should keep this in mind when setting a budget.

10.5 The fees and budgets listed in the Proposal are listed exclusive of GST. You agree to pay an additional amount sufficient to cover the GST where applicable.

11 Security

11.1 While Swoop Digital will take reasonable steps to protect your information, the ultimate responsibility for protecting your accounts remains with you.

12 Intellectual Property

12.1 You authorise Swoop Digital to use your intellectual property for the purposes of delivering the Services and indemnify and hold Swoop Digital harmless against any claims made regarding the use of that intellectual property.

13 Definitions and Interpretation

13.1 In this agreement the following definitions apply:

Account means accounts created with Third Party Platforms containing your personal information.

Digital Marketing Services include the following, as outlined in the Proposal:

- business evaluation and development of digital marketing activities;
- execution of agreed digital marketing activities;
- social media account and content creation;
- paid social media advertising;
- Google Adwords advertising and Search Engine Optimization (SEO);
- verification of your website in Google, Bing and/or Yahoo;
- policy documentation;
- undertaking training and seminars for your business;
- app advertising and optimization;
- carry out email marketing on your behalf;
- maintaining online directory listings; and
- any other activities identified that are specific to your business.

Third Party Platforms means including without limitation:

- Social media platforms such as Facebook, Twitter, Instagram, YouTube;
- Search providers such as Google, Bing and Yahoo;
- Google analytics and Google AdWords;

- CRM (customer relationship management) platforms;
- ERP (enterprise resource planning) platforms;
- marketing automation platforms; and
- analytical software and dashboarding tools.

End.