

TERMS AND CONDITIONS OF CONTRACT
For Intentional Direct Mail Advertising

1. **Parties and Contract.** These Terms and Conditions are incorporated into, and are a part of, the Advertising Contract. Accordingly, as used herein, the term “this Contract” includes (i) the document titled “Advertising Contract” and (ii) these Terms and Conditions. In the event of a conflict between the document titled “Advertising Contract” and these Terms and Conditions, these Terms and Conditions shall govern. This Contract also includes the terms of any accompanying addendum. “We,” “our” or “us” means AGI Publishing, Inc., a California corporation doing business as: The Buy Local Media Group, Valley Yellow Pages, and myyp.com. “You” or “your” means the person or other legal entity shown after “Advertiser.” “Advertisement” or “Advertising” means the information and images for your business that will be published on the Intentional Direct Mail postcards purchased by you. This Contract is not binding on us until accepted by our management, which may be conditional.

2. **Termination.**
 - a. **Pre-Provisioning Termination for Credit or Delinquencies.** We may order a credit report about you, and we may review your credit prior to provisioning your postcards. We reserve the right to request full payment in advance of provisioning or to terminate this Contract if we, in good faith, determine you do not meet our credit criteria. In addition, we may terminate this Contract prior to provisioning if there are any delinquent bills outstanding for any prior advertisement that was either ordered by you or that promoted you or any person included in the Advertising.

 - b. **Other Cancellation or Modification.** Except as otherwise provided in these Terms and Conditions, this Contract may only be modified or cancelled by written agreement signed by both parties. Any request for such modification or cancellation by you must be in writing and sent to: AGI Publishing, Inc., Attn: Customer Service Department; 1850 N. Gateway Blvd., Fresno, CA 93727 or CustomerService@myyp.com. Notwithstanding the above, we may terminate this Contract and discontinue the program at any time without liability if we or our vendor(s) discontinue offering the services for any reason.

3. **Call Measurement Number.** We will obtain a call measurement telephone number (“CMS Number”) from a third party vendor. The CMS number will appear as your telephone number in the postcard advertisements in the place of your normal telephone number. When telephone calls are made to the CMS Number, they will be automatically forwarded to your normal number and electronically counted. The results of your CMS Number will be available to you to assist you in measuring the effectiveness of this advertising program. Calls to the CMS Number will be recorded. We may also publicize the results of the program in promotional and marketing programs. Although we will attempt to provide a CMS Number with the area code you request, that is not always available and therefore not guaranteed. The CMS Number is available only in connection with this Intentional Direct Mail advertising program, and all rights to the CMS Number are reserved to us except as provided herein. If you breach this Contract, we may cancel the CMS Number or re-issue the CMS Number to another business and you will be unable to access the corresponding data.

4. **Advertising Content.**
 - a. **Providing Content.** You must provide us with advertising content. If we (or a vendor on our behalf) create or supply any artwork, illustrations, photographs, text or other content for your Advertising, we (or the vendor on our behalf) retain ownership of copyrights and all other intellectual property interests in such

materials. You may not use any content supplied by us or our vendor for any purpose other than your Intentional Direct Mail advertising purchased from us.

b. Our Right to Reject/Alter Content. We may, at any time, reject or alter any Advertising content which we, in our sole discretion, believe to be inappropriate, offensive, or unlawful.

c. Your Representations and Warranties re: Content. You represent and warrant that any Advertising content you supply (or authorize for use) will not violate any copyrights, trademark, service mark, trade name, or any other rights of any third party, and that your Advertising will contain only matters which are truthful, lawful, and authorized for use, and will contain no matter which is misleading, libelous, or injurious. You also represent and warrant that you and any individuals listed in your Advertising have all required licenses to provide the goods and services advertised. If we receive allegations that your Advertising violates any law or third party rights, including without limitation copyrights or trademark rights, we may (but are not obligated to) remove the disputed content from further postcards or discontinue the Advertising without liability.

d. Individual Publicity Rights. If the name, image or likeness of any individual(s) are identifiable as part of the content you supply for the Advertising, you represent and warrant that you have all necessary permissions from such individual(s).

e. Privacy. You warrant and represent that you will comply with all applicable privacy laws and will not collect, store, process, disseminate, use, provide, make available, or cause us or our vendor to use any end user's personally identifiable information, any data governed by the Health Insurance Portability and Accountability Act or any data regarding individuals under the age of thirteen.

f. Prohibited Categories. The following categories are prohibited from advertising with Intentional Direct Mail:

- 1) Due to HIPAA Privacy & Marketing Regulations medical professionals including:
 - a. Doctors. Specifically, general practitioners are excluded.
 - i. Dentists, Orthodontists, Chiropractors, Ophthalmologists, Audiologists and Hearing Aid Specialists, Podiatrists, Medical Spas are acceptable as long as the advertising is an offer for product or service.
 - b. Hospitals
- 2) Illegal, prescription, or recreational drugs
- 3) Supplements
- 4) Weapons, ammunition, or explosives (includes gun stores and gun ranges)
- 5) Adult products or services
- 6) Liquor Stores (bars may advertise food and drink specials or entertainment)
- 7) Lotteries
- 8) Gambling sites -- Casinos may be marketed however the advertising needs to feature the food, drinks, entertainment or specials taking place at the casino and cannot feature games or gambling related activities.

5. How the Intentional Direct Mail Program Works.

b. Website Requirements. A retargeting pixel must be placed on your website. You must also have a privacy and cookie policy on your website that is acceptable to us and our vendor. An example is viewable at <http://www.mylocalpage.com/>. The privacy policy must include clear disclosures as to i) the placement and use of cookies and pixels; ii) data collection, use and disclosure practices including that by visiting your

site, third parties may place cookies on browsers, the types of data that may be collected and that data collected may be shared with or used by third parties to target advertising based on the consumer's online behavior; and iii) how users may opt-out from receiving marketing and targeted advertisements.

c. Consumer Mailings. When a consumer visits your website, the technology will match the consumer's data with a postal address. Within approximately 48 hours, excluding Sundays and holidays, a postcard will be mailed via First Class Mail to the consumer's home. However, not all consumers visiting your website will be mailed a postcard. Some consumers will not be sufficiently identifiable with a mailing address to be sent a postcard.

d. Opt-Outs. You must honor all consumer elections not to receive direct mail. You must notify us of any suppression requests you receive from users who have opted-out of receiving direct mail.

e. Use of Third Party Vendors. We may perform our obligations through a third party vendor, who may utilize other third party vendors, technologies, and/or platforms.

6. Payment Obligations; Remedies.

a. Installment Payments. You agree to pay us all amounts due according to the installment payment schedule. Except as otherwise provided in this Contract, your liability to us arises only as time goes by and installment payments become due. Payment will be made via ACH, debit card, or credit card. You authorize us to initiate a charge or debit to the account you provide to us, without further authorization or notice, whenever the next installment payment is due. The next installment is due when 85% of the prior installment has been utilized, according to the price per postcard on the Contract. In the event the attempted charge or debit fails, you will be contacted and must immediately furnish payment to us.

b. Late Fees and Interest. We incur substantial costs and expenses in the performance of this Contract and your failure to make timely payments subjects us to substantial losses. You agree that time is of the essence in your payment, and that you will pay strictly in accordance with the payment schedule. It is also agreed that if you are late with a payment, it would be extremely difficult or impractical to fix actual damages resulting from the late payment; therefore, you agree to pay us a late charge of \$20.00 for the cost of administering the late payment for each month you are late. In addition, interest of 1.65% per month (19.8% Annual Percentage Rate) or the highest rate allowed by law will be charged on all past due principal amounts. In addition, a \$25.00 service fee will be added for any dishonored check.

c. Early Termination Fee. If you breach or repudiate this Contract, including, without limitation, by failing to make any payments when due, in addition to all other remedies expressed herein, we may elect to discontinue your Intentional Direct Mail program without liability and declare the Contract terminated. In such event, in addition to all other past due amounts, you will pay an Early Termination Fee equal to 50% of the remaining payments that you would otherwise owe if the Contract were fully performed. The parties agree that this Early Termination Fee is reasonable in light of our upfront sales, set up, and opportunity costs in connection with the Intentional Direct Mail program.

d. Credit and Collections. In the event you breach any payment obligations, we may also refer you to collection and credit reporting agencies.

e. Out-of-Business Debt Forgiveness. Notwithstanding the foregoing, and subject to the requirements stated below, if your telephone service for all telephone numbers utilized in your Advertising is terminated and you stop conducting business, you will no longer be obligated for any future installment amounts that would otherwise become due, beginning with the next installment after we are notified and receive all

required information. In order to be relieved of any such obligations that would otherwise become due, you must notify us in writing within 60 days after you stop conducting business, and you must provide us with a copy of your final phone bill and any other documentation we may request. Written notice must be delivered to: AGI Publishing, Inc.; Attn: Accounts Receivable; 1850 N. Gateway Blvd., Fresno, CA 93727 or CustomerService@myyp.com. The sale of your business, however, will not relieve you from any payment obligations.

f. Co-op Advertising Disclaimer. Any co-op advertising arrangement is between you and the manufacturer, distributor, etc. A failure to receive any expected co-op reimbursement does not relieve you of your financial obligations to us.

7. **Choice of Law; Venue; Legal Fees.** California substantive law governs this Contract without regard to the conflict of law provisions. This Contract will be performed in Fresno County, CA. Venue for any legal disputes will be in Fresno County, CA. Both parties waive any rights to participate in any class or representative legal action related to this Contract, and waive any rights to a jury trial. In any legal action to collect amounts owing to us under this Contract, the prevailing party will be entitled to reasonable attorneys' fees, court and/or arbitration costs (including the fees of the arbitrator) and costs of collections, in addition to any other relief awarded.
8. **No Waiver.** Any waiver of our rights under this Contract must be in writing and will not constitute a waiver of any similar or future rights. Our acceptance of partial or delinquent payments or our failure to exercise any right to late charges will not be considered a waiver of any rights herein. Additionally, we may apply any payment made by you to any past due debt then owed by you to us whether under this Contract or otherwise. You waive the provisions of the Civil and Commercial Codes relating to accord and satisfaction. No acceptance of any payment or any instrument marked with any restricted covenant or other limited or conditional endorsement will be deemed a waiver of our rights under this Contract.
9. **Indemnification.** You agree to indemnify, defend and hold us and any of our shareholders, directors, officers, employees, agents, representatives, vendors, contractors, and assigns harmless from and against all claims, demands, damages, losses, expenses, costs of defense, attorneys' fees, and liabilities arising out of or in any way caused by or connected with this Contract or your Intentional Direct Mail advertising. Any legal defense provided by you to us under this paragraph shall be performed by counsel satisfactory to us.
10. **No Guarantee of Results.** We do not guarantee and you expressly disclaim any reliance on any statements, representations, or estimates not contained in this Contract, including without limitation, the performance of your Intentional Direct Mail, the number of phone calls, sales, customers, or any other business benefit that may result from your Intentional Direct Mail program.
11. **Assignment.** You may not assign or transfer any rights or obligations under this Contract without our express written consent, which may be granted or withheld in our sole discretion. Subject to the foregoing, this Contract is binding upon and shall inure to the benefit of each party's successors and permitted assigns. We may sell, assign or transfer our rights and obligations under this Contract (or any portion thereof) to any person or entity at any time.
12. **Entire Agreement.** This Contract is the entire and final agreement between you and us. We are not bound by any agreement, representation or understanding not expressed herein. If any part of this Contract is held to be unenforceable, the enforceability of the remainder of this Contract shall not be impaired.

LIMITATION OF LIABILITY

- 13. Limitation of Liability.** Our liability for any cause of action arising out of or related to this Contract, including for errors or omissions by us, will be limited to a pro rata adjustment of the charges in the same proportion that the effectiveness of your Advertising has been reduced. If the effectiveness of your Advertising has not been reduced, then we will not be liable for any such cause of action. In no event will we be liable for any loss of your business, revenues or profits, your cost of other forms of advertising, or special, consequential, indirect or punitive damages of any nature. No refund by us to you will exceed the price of the Intentional Direct Mail program stated on this Contract. The foregoing provisions apply to the full extent permitted by law, regardless of whether your claim is based on contract, tort, statute, regulation, or otherwise. The recovery allowed herein constitutes our sole liability to you and your exclusive remedy against us in the event of such error, omission, or other breach of duty to you. However, if you do not desire to waive such claim for loss or damages, you may negotiate to pay additional charges upon contract signing, with our President's written approval, so that our liability will not be limited as stated herein. These additional charges will be based on the type of business, the installment bill, and other factors of risk. If you are interested in obtaining additional information about this option, you must call our customer service manager at 800-350-8887. Whether or not additional charges are paid, all claims based on any errors or omissions in connection with this Contract must be made during the 12 month period following the date the error or omission was or should have been discovered (whichever is earlier). All claims not made within this time period are waived and may not be asserted in any lawsuit or arbitration proceeding. For the purposes of this paragraph, "we," "our," and "us" also includes our employees, officers, directors, vendors, contractors and agents.

BINDING ARBITRATION

- 14. Binding Arbitration.** You and we agree to binding arbitration of all disputes, claims or controversies between you and us, except as set forth in this paragraph. For purposes of this paragraph, "we," "our," and "us" also includes our employees, officers, directors, vendors, contractors, and agents. For purposes of this paragraph, "you" or "your" also includes your employees, officers, directors, agents, partners, shareholders, members, heirs, executors and assigns. This arbitration agreement includes any dispute, claim or controversy arising out of or relating to any aspect of the relationship between you and us, whether based in contract, tort, statute, regulation, fraud, misrepresentation or any other legal theory, including but not limited to, any provision of this Contract or the performance or breach of this Contract, and including but not limited to, all disputes, claims or controversies that arose before this Contract or any prior agreement, or which may hereafter arise, and claims that may arise after the termination of this Contract. This arbitration agreement shall survive the termination of this Contract. Either you or we may initiate arbitration by sending to the other, by certified mail, a written demand for arbitration (the "Demand"). If you initiate arbitration, the Demand must be sent to AGI Publishing, Inc., 1850 N. Gateway Boulevard, Fresno, California 93727, Attention: Legal Department. If we initiate arbitration, the Demand must be sent to you at the address listed for Advertiser in the Advertising Contract. The Demand must describe the nature and basis of the dispute, claim or controversy and set forth the relief sought. Any dispute, claim or controversy shall be resolved by binding arbitration before a single arbitrator administered by the American Arbitration Association ("AAA") pursuant to its Commercial Arbitration Rules then in effect, as modified by this Contract. The AAA Rules are available at www.adr.org or by telephoning (800) 778-7879. The arbitration shall take place in Fresno, California. If the claim is for Ten Thousand Dollars (\$10,000) or less, you may choose whether the arbitration shall be conducted solely based on documents submitted to the arbitrator, through a telephonic or videoconference hearing, or by an in-person hearing. Each party shall initially bear its own filing, administrative and arbitrator fees and costs, subject to any later reimbursement the party may be entitled to pursuant to this Contract or applicable law. The decision of the arbitrator shall be binding and conclusive on all parties, and there shall be no right of appeal therefrom, and judgment may be entered upon the decision of the arbitrator by any court of competent jurisdiction. You recognize that, in agreeing to arbitration, among

other differences, there is no judge or jury in arbitration, discovery is more limited than in court, and court review of an arbitration decision is limited. **You and we agree that any dispute, claim or controversy may be conducted only on an individual basis and not on a class, consolidated or representative basis;** neither you nor we shall be a member in a class, consolidated or representative proceeding; and the arbitrator is only authorized to award relief on an individual basis. **You may choose to pursue your dispute, claim or controversy in court and not by arbitration if you opt out of this arbitration agreement within the “Opt-Out Deadline”.** The Opt-Out Deadline is thirty (30) days from the date on which you sign the Advertising Contract. You may opt out within the Opt-Out Deadline by sending a written notice by certified mail to AGI Publishing, Inc., 1850 N. Gateway Boulevard, Fresno, California 93727, Attention: Legal Department indicating that you wish to opt out of arbitration.