

Proposal to Contact

- 1. ADD: SCHEDULE "A" – to scope of work**
- 2. ADD: SCHEDULE "B" to the pricing sheet**
- 3. ADD: SCHEDULE "C" and Billing Paragraph**
- 4. ADD : the Terms below**

SCHEDULE "C"

BILLING DETAILS

We generate monthly service invoices on the first business day of each month for all services rendered that month. All monthly payments required by this Agreement shall be paid within seven days from the date that you receive the invoice.

We accept the following forms of payment for all monthly payments, as well as any late fees or interest charges, required by this Agreement: check, credit card, wire transfer or ACH direct debit from your bank account. If you pay via ACH, you will also be required to execute a pre-authorized bank form, or any other documents that are necessary to permit us to withdraw funds from your designated bank account by electronic funds transfer for payment of the monthly management service fees and other amounts due to us under this Agreement at the time such amounts become due and payable under this Agreement. Should any electronic funds transfer not be honored by your bank for any reason, you agree that you will be responsible for that payment and any service charge.

We offer a 2% discount on your monthly management service fees, not including ad spend, if you make payments via wire transfer or recurring ACH debits directly from your bank account. In order to receive this 2% discount, you must complete your payments no later than the 15th day of each month. We also offer a discount if you make advanced payments. We offer 12 month, six month and quarterly advance payment discounts on your monthly management service fees, not including ad spend, of 15%, 10% and 5%, respectively.

By providing your credit card information below, you hereby authorize Today's Business to make recurring charges for the payment of services rendered on the credit card listed. If necessary, you also authorize Today's Business to initiate adjustments for any transactions credited/debited in error. We process all credit card payments and ACH payments on the 15th day of each month, or the next business day thereafter. This authority will remain in effect until Today's Business is notified in writing to cancel in such time as to afford Today's Business a reasonable opportunity to act upon it.

Please Send Checks To:

Today's Business
39 Route 46 East, Unit 801
Pine Brook NJ, 07058

OR

Card Type: _____ Card #: _____

Name As it Appears on Card: _____ Exp Date: _____

Security Code: _____ Billing Address: _____

Billing City: _____ Billing State/Zip: _____

[INSERT DATE]

Re: Engagement letter between Today's Business LLC, a New Jersey limited liability company (“**Today's Business**” or “**TB**” or “**we**”) and [TB123] (“**Client**” or “**you**”) (“**TB**” and “**Client**” are each a “**Party**” and collectively are the “**Parties**”).

Dear Client:

This engagement letter (the “**Agreement**”) will serve as the basis for our general working relationship. Accordingly, as a condition to our providing services to you, we require that you execute this Agreement memorializing the terms of our relationship effective as of the date set forth above (the “**Effective Date**”). Today’s Business is pleased to provide TB123 with the following digital marketing proposal. The intent of the proposal is to deliver a complete social media and integrated marketing solution designed to improve net revenue results as well as customer loyalty and engagement.

Today's Business and Client hereby agree as follows:

1. **Scope of Services.** Client and Today's Business acknowledge and confirm that the Services to be rendered hereunder by Today's Business's to Client are set forth in **Schedule "A"** to this Agreement.

2. **Fees.**

A. Client and Today's Business acknowledge and confirm that Today's Business's fees in consideration of Services rendered hereunder are set forth in **Schedule "B"** to this Agreement. Client acknowledges and confirms that Today's Business reserves the right to collect all of its fees for the Services directly from Client. Client further acknowledges and agrees that Today's Business reserves the right, in its sole, unfettered discretion, to increase the fees set forth under **Schedule "B"** by Three Percent (3%) for each successive term (as defined in Section 3 below). In the event Client defaults under this Agreement, Client shall be liable to Today's Business for any outstanding fees owed to Today's Business.

B. Payment of all applicable fees owed by Client to Today's Business shall be paid pursuant to the Billing Details set forth under **Schedule "C"** to this Agreement.

3. Term.

The term of this Agreement is twelve (12) months (the "**Term**"), beginning on the Effective Date. This Agreement shall automatically renew at the end of the Term, unless either Party provides written notice of termination to the other Party within ninety (90) days of the end of the Term.

4. Termination.

A. Client may terminate this Agreement at any time provided written notice is given to Today's Business at least ninety (90) days prior to the effective date of termination. Termination of this Agreement in no way shall restrict Consultant from collecting any fees owed to it from Client through the date of such Termination.

B. Today's Business may terminate this Contract effective immediately and without notice to Client if Client: (i) fails to pay any fees or other amounts owed to Today's Business for Services rendered by Today's Business within ten (10) days after receiving written notification of any outstanding fees owed; or (ii) enters into insolvency, bankruptcy, reorganization, arrangement, dissolution, winding-up or liquidation proceedings or makes any assignment in bankruptcy or for the benefit of creditors or if a trustee, receiver or person with similar powers is appointed with respect to any of Client's assets. Today's Business reserves the right, in its sole discretion, to charge Client a fee to reactivate Services following a termination (a "**Reactivation Fee**"), in an amount to be determined by Today's Business, if Client so chooses to reactivate the Services provided for herein.

C. Client may terminate this Agreement without providing the 90 day notice provided for in Section 4(A) if Today's Business: (i) is prevented from providing any portion or all of the Services required under this Agreement by any law, regulation, requirement or ruling issued in any form whatsoever by judicial or other governmental authority; (ii) if Today's Business ceases offering the Services or (iii) enters into insolvency, bankruptcy, reorganization, arrangement, dissolution, winding-up or liquidation proceedings or makes any assignment in bankruptcy or for the benefit of creditors or if a trustee, receiver or person with similar powers is appointed with respect to any of Today's Business' assets.

5. General Billing & Payment.

Unless otherwise stated in writing, all invoices will be due and payable within seven (7) days from the date of Client's receipt of an invoice (**See Schedule "C"**). Any balance that is over thirty (30) days past due shall bear interest at the rate of Two Percent (2.0%) per month until paid. In addition, Today's Business has the right to terminate this Agreement and/or suspend performance under this Agreement at any time if Client has not paid any outstanding past due balance owed within ten (10) days after receiving written notice from Today's Business of such default. In the event this Agreement does not provide the applicable fee information for any Service (or part thereof) rendered, then such Service (or part thereof) shall be provided at our then-current standard rate, which we will provide to Client upon your reasonable request. Initial fees will be billed prior to program launch.

6. Mutual Confidentiality and Privacy.

A. The Parties acknowledge that in the course of this Agreement, they will have access to and/or will be in possession of confidential information of the other. “**Confidential Information**” shall mean information regarded by that party as confidential and includes information about its business affairs, services, intellectual property, trade secrets, financial information, and other sensitive or proprietary information otherwise identified as confidential, whether disclosed or otherwise made available in any manner by such party to the other party, or to which a party may gain access in the performance of this Agreement, whether disclosed orally, visually or through any tangible medium (collectively, “**Confidential Information**”). Information and material need not be labelled or marked “confidential” or bear similar language or mark to be deemed Confidential Information hereunder, and failure to do so will not give rise to an inference that the information disclosed is not confidential and will include information that a reasonable person under the same or similar circumstances of disclosure would understand to be confidential. “Confidential Information” may also include, without limitation, trade secrets and proprietary information, data, techniques, sketches, drawings, specifications, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs and software source documents, business forecasts, pricing, sales, and marketing plans and any other similar information or data belonging to either party and any affiliates, customers or clients of the party.

B. If either party is required to produce Confidential Information of the other party pursuant to a legally enforceable request, the producing party shall provide immediate notice to the other party of the receipt of such request. This provision shall survive termination of the Agreement.

C. Upon request, the receiving party will promptly return to the furnishing party all copies, in whole or in part, of any of the Confidential Information in its possession, or it shall destroy all such copies and certify in writing that such Confidential Information has been destroyed.

D. Each party will hold in confidence, in the same manner as it holds its own Confidential Information of like and kind, all Confidential Information of the other to which it may have access hereunder. Neither Party, without the consent of the other Party, will use, reproduce, distribute, transmit, or disclose, directly or indirectly, any Confidential Information of the other Party. Neither Party's Confidential Information shall be used in any way other than to exercise its rights or perform its obligations under this Agreement. The recipient of Confidential Information may only disclose the Confidential Information to its officers, directors, employees, and independent contractors with a need to know the information for the implementation of this Agreement, provided that such persons are bound by confidentiality obligations. The receiving party of such Confidential Information shall be responsible for any breach of this Section caused by any of its representatives. The disclosing party may seek equitable relief (including injunctive relief) against the receiving party and its representatives to prevent the breach or threatened breach of this Section, in addition to all other remedies available at law.

E. Notwithstanding the foregoing, Confidential Information shall not include information if, and only to the extent that, the recipient establishes that the information: (i) is or becomes a part of the public domain through no act or omission of the recipient; (ii) was in the recipient’s lawful possession prior to the disclosure and had not been obtained by the recipient either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the recipient by a third party without restriction on disclosure; (iv) is independently developed by the recipient; or (v) is disclosed by the recipient pursuant to a requirement of a governmental agency or by operation of law, provided that the recipient shall disclose only that part of the Confidential Information which it is required to disclose and shall notify the owner prior to such disclosure in a timely fashion in order to permit the owner to attempt to prevent or restrict

such disclosure should it so elect. The disclosing party may seek equitable relief (including injunctive relief) against the receiving party and its representatives to prevent the breach or threatened breach of this Section 6, in addition to all other remedies available at law.

F. **Privacy.** The parties shall comply with all privacy rights related obligations under applicable U.S. legislation, laws and regulations.

7. Indemnification.

Client shall indemnify, defend and hold harmless Today's Business against and in respect of any and all losses, costs and expenses (including, without limitation, reasonable costs of investigation and defense and reasonable attorney's fees), claims, damages, obligations, or liabilities, whether or not involving a third-party claim (collectively, "**Damages**") , if and to the extent such Damages result from any claims asserted by any third-party, to the extent the same arises from or in connection with this Agreement and/or any breach or non-fulfilment of any covenant or obligation of Client contained in this Agreement.

8. Limitation of Liability.

A. THE PARTIES HAVE NEGOTIATED THIS AGREEMENT WITH DUE REGARD FOR THE BUSINESS RISK ASSOCIATED WITH THE ARRANGEMENTS DESCRIBED IN THIS AGREEMENT. EXCEPT FOR LIABILITIES SUBJECT TO THE INDEMNITY PROVISIONS OF THIS AGREEMENT OR FOR FEES OWED TO TODAY'S BUSINESS BY CLIENT, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY IN ANY MANNER, UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING FROM THE SERVICES. THIS LIABILITY LIMITATION APPLIES EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, ANTICIPATED PROFITS OR LOST BUSINESS, AND EVEN IF THE DAMAGES WERE OR WERE NOT REASONABLY FORESEEABLE. IN ANY CASE, THE CUMULATIVE AGGREGATE LIABILITY OF EACH PARTY FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES OR DAMAGES FROM ANY CAUSE WHATSOEVER (OTHER THAN CLAIMS SUBJECT TO THE INDEMNITY PROVISIONS OF THIS AGREEMENT OR FOR FEES DUE TODAY'S BUSINESS BY CLIENT) AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY SHALL BE LIMITED TO THE ACTUAL DAMAGES THAT ARE REASONABLY INCURRED BY THE NON-BREACHING PARTY. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

B. ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE RELATIONSHIP BETWEEN YOU AND US MUST BE MADE BY WRITTEN NOTICE TO THE OTHER PARTY WITHIN ONE (1) YEAR FROM THE DATE ON WHICH YOU OR WE KNEW OR SHOULD HAVE KNOWN, IN THE EXERCISE OR REASONABLE DILIGENCE, OF THE FACTS GIVING RISE TO SUCH CLAIMS, WHICHEVER OCCURS FIRST, EXCEPT FOR CLAIMS FOR: (A) INDEMNIFICATION; OR (B) UNAUTHORIZED USE OF THE CONFIDENTIAL INFORMATION. HOWEVER, THIS PROVISION DOES NOT LIMIT OUR RIGHT TO TERMINATE THIS AGREEMENT IN ANY WAY.

9. **Non-Disparagement.**

Each Party covenants and agrees that it will not make any disparaging, degrading, or demeaning remarks or cast any aspersions on or about the other or its principals, affiliates, or employees, whether orally or in writing to any persons or parties whatsoever.

10. **Miscellaneous**

A. **Governing Law and Jurisdiction.** This Agreement is made pursuant to, and shall be construed and enforced in accordance with, the laws of the State of New Jersey and the United States, without giving effect to otherwise applicable principles of conflicts of law. The Parties agree that the state and federal courts located in or about the State of New Jersey shall have the exclusive jurisdiction to adjudicate any disputes between the parties that are not otherwise resolved, and each Party hereby agrees to submit to the jurisdiction of such courts.

B. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the Parties hereto with respect to the services contemplated hereby and supersedes all prior agreements, arrangements and understandings related to the subject matter hereof. No representation, promise, inducement or statement of intention has been made by any Party hereto which is not embodied in this Agreement, and no Party hereto shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.

C. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall be binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of the Parties reflected hereon as signatories.

D. **Telecopy Execution and Delivery.** A facsimile, telecopy, electronic or other form of reproduction of this Agreement may be executed by one or more Parties hereto, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar instantaneous electronic transmission device pursuant to which the signature of or on behalf of such Party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any Party hereto, all parties hereto agree to execute an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

E. **Prevailing Party.** The Parties agree that if Today's Business is the prevailing party in any suit, action, arbitration or other proceeding of any nature whatsoever arising directly or indirectly out of an alleged breach of this Agreement by Client, then in addition to any award of damages, Today's Business will be entitled to reimbursement of all reasonable attorney fees and costs incurred.

F. **Right to Advertise Relationship.** Client agrees that Today's Business has the right to advertise its affiliation with Client in all forms of media, including without limitation, on Today's Business's website, in trade or business publications or on the internet in general. To the extent Today's Business provides Client with such advertisement(s) for approval, and Client fails to approve or disapprove the same within 7 days from its receipt of the same, such advertisement shall be deemed approved for publication by Today's Business.

G. **Miscellaneous.** The Parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as may be reasonably necessary to give effect to the purposes of this Agreement and the Parties' hereunder.

H. **Notice.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by nationally recognized overnight courier (such as Federal Express), transmitted via facsimile transmission or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed to the Party at the address set forth under the Party's signature to this Agreement. Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, notices sent via facsimile transmission shall be deemed given upon transmission and notices sent via certified or registered mail in accordance with the foregoing shall be deemed given two (2) days after being deposited in the U.S. Mails.

I. **Assignment.** This Agreement shall be binding on the Parties hereto and their respective successors, affiliates and assigns, provided, however, that neither Today's Business nor Client may assign, transfer, or delegate any of its rights or obligations under this Agreement (including, without limitation, interests or claims relating to this Agreement) without the prior written consent of the other. Notwithstanding the foregoing, Today's Business may, without the consent of Client, assign or subcontract its rights and obligations under this Agreement to any entity that acquires all or a substantial part of the assets or business of it.

[Signature Page to Follow]

The undersigned Parties have executed this Agreement thereby making it effective:

CLIENT:

TODAY'S BUSINESS, LLC:

TB123

Signed:

Signed:

Title:

Title:

Date:

Date:
