
Brand Ambassador Terms

PLEASE READ THESE TERMS CAREFULLY

These Terms (**Terms**) constitute a legal agreement between you (**'Brand Ambassador' or 'you'**) and MACHINECOMPARE.COM LIMITED a company incorporated in England and Wales under company number 09169101 and whose registered office is at 651a Mauldeth Road, West Chorlton, Manchester, M21 7SA (**'Client,' 'us' or 'we'**).

BACKGROUND

- (1) The Client wishes to engage the Brand Ambassador to assist with the marketing of the Client's services.
- (2) The Brand Ambassador has skills, background and experience in marketing web-based sales.
- (3) The Brand Ambassador is willing to provide the Marketing Services (as defined below) and the Client is willing to appoint the Brand Ambassador to provide the Marketing Services, all in accordance with the provisions of these Terms.

IT IS AGREED:

1 Definitions

In these Terms, the following words shall have the following meanings:

- 1.1 **'Claims'** means all claims, demands and liability (whether civil or criminal, in tort, contract or otherwise) for damages, losses, legal costs and other expenses, and all expenses and costs (including legal costs) incurred in connection with any of the above;
- 1.2 **'Commencement Date'** means the date on which you are approved by MachineCompare.com Limited;
- 1.3 **'Fee(s)'** means the fees set out in the Schedule;
- 1.4 **'Intellectual Property'** means any and all copyright, database rights, rights in respect of confidential information, and all other intellectual property rights;
- 1.5 **'Marketing Services'** means advertising and sales agency services;
- 1.6 **'Materials'** means all reports, advertisements, advertising copy, documents, papers, information, data and disks prepared by the Brand Ambassador pursuant to these Terms, wherever such Material is located or stored, and all copies of the Materials;
- 1.7 **'Outcomes'** means the desired results, targets to be achieved or matters which will be attained and which are specified in the Specification;
- 1.8 **'Parties'** means the Brand Ambassador and the Client, and **'Party'** shall mean either one of them;
- 1.9 **'Purpose'** means the meaning given in the Specification;
- 1.10 **'Specification'** means the specific Marketing Services to be provided by the Brand Ambassador under these Terms when such Marketing Services will be provided, the length of time they will take to perform and the human and other resources and facilities which are to be supplied by the Brand Ambassador. The Specification is set out in the Schedule to these Terms.

2 Marketing Services

- 2.1 The Brand Ambassador shall provide the Marketing Services according to the Specification to the Client in consideration for the Client paying the Fees to the Brand Ambassador, subject to the provisions of these Terms.
- 2.2 The Brand Ambassador shall use its best endeavours to complete the Marketing Services by the dates specified in the Specification.
- 2.3 The Marketing Services shall only be performed by the persons named in the Specification.
- 2.4 If the Brand Ambassador wishes persons other than the persons named in the Specification to perform the Marketing Services, the Brand Ambassador shall only do so after obtaining the prior written approval of the Client.
- 2.5 From the date of these Terms the Parties shall discuss and agree the particular Marketing Services to be carried out by the Brand Ambassador and what the desired Outcomes shall be. What has been agreed by the Parties, the time estimates for the provision of the particular Marketing Services, and the Fee(s) shall be set out in the Specification.

3 Insurance

- 3.1 The Brand Ambassador shall have in place one or more insurance policies:
 - 3.1.1 to cover the liabilities that may arise from the Brand Ambassador; or
 - 3.1.2 as may be required by the Client from time to time,
and the insurance policies shall remain in force during the period these Terms is in force.
- 3.2 At the request of the Client, the Brand Ambassador shall supply a copy of the insurance policies to the Client and ensure that the Client shall be entitled to the benefit of such insurance.

4 Fees and payment of Fees

- 4.1 The payment of the Fees shall be made by the Client to the Brand Ambassador as stated in the Specification.
- 4.2 The Fees are calculated at the rate(s) specified in the Specification. The Brand Ambassador shall not be entitled to vary rates during the existence of these Terms.
- 4.3 The Brand Ambassador shall not charge, and the Client shall not be liable, for any expenses, charges, costs, fees except the Fees.
- 4.4 All amounts stated are exclusive of VAT and any other applicable taxes, which will be charged in addition at the rate in force at the time the Client is required to make payment.
- 4.5 The Brand Ambassador agrees that, on reasonable prior written notice, any and all contracts, agreements, correspondence, books, accounts and other information relating to the Client's business or these Terms shall be available for inspection by the Client and/or by the Client's accountants, at the Client's expense.

5 Client's obligations

During the performance of the Marketing Services, the Client will:

- 5.1 co-operate with the Brand Ambassador as the Brand Ambassador reasonably requires; and
- 5.2 provide the information and documentation that the Brand Ambassador reasonably requires.

6 Use of sub-contractors

6.1 The Brand Ambassador is permitted to use other persons to provide some or all of the Marketing Services only with the express prior written permission of the Client.

6.2 The Brand Ambassador shall be responsible for the work of a sub-contractor to the same standard as stated in these Terms.

7 Confidentiality

7.1 Each Party ('Receiving Party') shall keep the confidential information of the other Party ('Supplying Party') confidential and secret, whether disclosed to or received by the Receiving Party. The Receiving Party shall only use the confidential information of the Supplying Party for the Purpose and for performing the Receiving Party's obligations under the Terms. The Receiving Party shall inform its officers, employees and agents of the Receiving Party's obligations under the provisions of this clause, and ensure that the Receiving Party's officers, employees and agents meet the obligations.

7.2 The obligations set out in clause 7.1 shall not apply to any information that:

7.2.1 was known by or in the possession of the Receiving Party before the Providing Party provided it to the Receiving Party;

7.2.2 is, or becomes, publicly available through no fault on the part of the Receiving Party;

7.2.3 is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;

7.2.4 was developed by the Receiving Party (or by someone acting on its behalf) who had no direct access to, or use or knowledge of the confidential information supplied by the Supplying Party; or

7.2.5 is required to be disclosed by order of a court of competent jurisdiction.

7.3 This clause 7 shall survive termination of these Terms.

8 Intellectual Property

8.1 The Brand Ambassador shall promptly disclose to the Client all Intellectual Property that is conceived, developed, made or reduced to practice by the Brand Ambassador in the performance of the Marketing Services.

8.2 The Brand Ambassador hereby assigns to the Client all its right, title and interest in and to all and waives its moral rights in all such Intellectual Property to the extent that it is legally possible to do so.

8.3 If the Brand Ambassador has any rights in any Intellectual Property conceived, developed, made or reduced to practice by the Brand Ambassador in the performance of the Marketing Services that cannot be assigned or waived, the Brand Ambassador hereby grants to the Client an exclusive, worldwide, royalty-free licence, including the right to sub-license, to use such Intellectual Property in any way whatever, including reproducing, distributing, modifying, publicly performing and publicly displaying it.

8.4 The Brand Ambassador shall assist the Client in any reasonable manner to obtain and enforce for the Client's benefit any right covering the Intellectual Property in any country, and shall, at the Client's request and expense, execute any assignment or other lawful document deemed necessary by the Client to carry out the purposes of these Terms.

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- 8.5 All Materials shall be the Client's property, and the Brand Ambassador shall promptly deliver all Materials to the Client at the Client's request.
- 8.6 Nothing in these Terms shall confer on the Brand Ambassador any right, title or interest in or to any trade mark or goodwill. The Brand Ambassador may use the Client's trade marks, which are the exclusive property of the Client, only for the purposes contemplated in these Terms and in the manner set out in the Specification.
- 8.7 This clause 8 shall survive termination of these Terms.

9 Warranties, liability and indemnities

- 9.1 The Brand Ambassador warrants and undertakes that:
- 9.1.1 it will carry out the work by the date(s) specified in the Specification (or) the dates agreed by the Parties to these Terms;
- 9.1.2 it will carry out the Marketing Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with applicable laws and regulations and the best practice within the marketing industry ('Best Practice');
- 9.1.3 the Brand Ambassador's employees and agents will have the necessary skills, professional qualifications and experience to perform the Marketing Services in accordance with the Specification and Best Practice;
- 9.1.4 it has full capacity and authority to enter into these Terms;
- 9.1.5 it has obtained all necessary and required licences, consents and permits to perform the Marketing Services;
- 9.1.6 the Client's use, reproduction, distribution or modification of the Materials does not and will not violate the rights of any third party or any applicable law or regulation;
- 9.1.7 the Materials are and will be free and clear of all encumbrances, charges, liens, licences or other restrictions.
- 9.2 The Brand Ambassador shall indemnify the Client against any Claims suffered by the Client based upon or related to the Brand Ambassador's performance of the Marketing Services, including any claim of libel, slander, plagiarism, invasion of privacy, or infringement of copyright or other Intellectual Property interest, except where the Claim arises out of material provided by the Client and incorporated into Materials by the Brand Ambassador.

10 Termination

- 10.1 If the Brand Ambassador or the persons specified to carry out the Marketing Services become unavailable and the Parties cannot agree on a suitable replacement to perform the Marketing Services then either Party may terminate these Terms by written notice to the other Party.
- 10.2 Without prejudice to the other remedies or rights a Party may have, either Party may terminate these Terms, at any time, on written notice to the other Party ('Other Party'). The notice will take effect as specified in the notice:
- 10.2.1 if the Other Party is in material breach of its obligations under these Terms and where the breach is capable of remedy within (30) days, the Other Party has not remedied the breach within (30) days of receiving written notice which specifies the breach and requires the breach to be remedied; or
- 10.2.2 if the Other Party becomes insolvent or if an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an

Our standard Terms of Contract shall, unless otherwise agreed in writing, govern every contract entered into by our Company. A copy is available on request.

Registered in England, Number 9169101

Registered office: c/o 651 A Mauldeth Road West, Chorlton, Manchester, M21 7SA

administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

- 10.3 Upon termination of these Terms for any reason, the Brand Ambassador shall deliver, and require that its employees, agents and sub-contractors to the Client deliver all Materials and any other property of the Client which are in the possession or control of the Brand Ambassador or the Brand Ambassador's employees, agents or sub-contractors at the date of termination.
- 10.4 The Brand Ambassador shall provide reasonable co-operation in arranging for the transfer or approval of third parties' interests in contracts, agreements and other arrangements with advertising media, suppliers, talent and others not then used, following appropriate release from its obligations therein.

11 General

11.1 Force majeure

Neither Party shall have any liability under or be deemed to be in breach of these Terms for any delays or failures in performance of these Terms that result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances exist for a continuous period of more than 6 months, either Party may terminate these Terms by written notice to the other Party.

11.2 Amendments

These Terms may only be amended in writing signed by duly authorised representatives of the Parties.

11.3 Assignment

Subject to the following sentence, neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under these Terms without the prior written agreement of the other Party. A Party may, however, assign and transfer all its rights and obligations under these Terms to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other Party to be bound by the obligations of the assignor under these Terms.

11.4 Entire Terms

These Terms contains the whole agreement between the Parties in respect of the Marketing Services and supersedes and replaces any prior written or oral agreements, representations or understandings between them relating to such subject matter. The Parties confirm that they have not entered into these Terms on the basis of any representation that is not expressly incorporated into these Terms. Nothing in these Terms excludes liability for fraud.

11.5 Waiver

No failure or delay by the Brand Ambassador in exercising any right, power or privilege under these Terms shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The

rights and remedies provided in these Terms are cumulative and not exclusive of any rights and remedies provided by law.

11.6 **Agency, partnership etc**

These Terms shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in these Terms. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

11.7 **Further assurance**

Each Party to these Terms shall at the request and expense of the other or any of them execute and do any deeds and other things reasonably necessary to carry out the provisions of these Terms or to make them easier to enforce.

11.8 **Severance**

If any provision of these Terms is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from these Terms and rendered ineffective as far as possible without modifying the remaining provisions of these Terms, and shall not in any way affect any other circumstances of or the validity or enforcement of these Terms.

11.9 **Announcements**

No Party shall issue or make any public announcement or disclose any information regarding these Terms unless prior to such public announcement or disclosure it furnishes all the Parties with a copy of such announcement or information and obtains the approval of such persons to its terms. However, no Party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.

11.10 **Interpretation**

In these Terms unless the context otherwise requires:

11.10.1 words importing any gender include every gender;

11.10.2 words importing the singular number include the plural number and vice versa;

11.10.3 words importing persons include firms, companies and corporations and vice versa;

11.10.4 references to numbered clauses and schedules are references to the relevant clause in or schedule to these Terms;

11.10.5 reference in any schedule to these Terms to numbered paragraphs relate to the numbered paragraphs of that schedule;

11.10.6 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

11.10.7 the headings to the clauses, schedules and paragraphs of these Terms are not to affect the interpretation;

11.10.8 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

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11.10.9 where the word 'including' is used in these Terms, it shall be understood as meaning 'including without limitation'.

11.11 Notices

11.11.1 Any notice to be given under these Terms shall be in writing and shall be sent by first class mail or air mail, or email (confirmed by first class mail or air mail), to the address of the relevant Party set out at the head of these Terms, or such other address as that Party may from time to time notify to the other Party in accordance with this clause.

11.11.2 Notices sent as above shall be deemed to have been received 3 working days after the day of posting (in the case of inland first class mail), or 7 working days after the date of posting (in the case of air mail), or on the next working day after sending (in the case of email).

11.11.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.

11.12 Law and jurisdiction

The validity, construction and performance of these Terms shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

11.13 Third parties

For the purposes of the Contracts (Rights of Third Parties) Act 1999 these Terms is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

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SCHEDULE - The Specification

1. These Terms shall continue for a term of one year from the Commencement Date, and continue thereafter annually unless terminated in writing on not less than one month's notice in writing.
2. The Services to be performed shall include: Marketing, PR, Sales, Direct mail and Email Campaigns and other marketing activity of the Brand Ambassador Promotion.
3. The Fees payable by the Client to the Brand Ambassador shall be calculated by reference to the advertising rates paid by clients of the Client using the discount codes for use on the Client's website (www.machinecompare.com) provided by the Brand Ambassador to prospective clients of the Client. The Fees shall equate to 20% of the advertising rates paid by the Client's clients which have used discount codes supplied by the Brand Ambassador on the Client's website.
4. In order for the Brand Ambassador to be eligible for the Fees, any customers the Brand Ambassador purports to bring to the Client must not already be registered as a customer i.e. they have not previously subscribed for a machine listing or an entry in the services directory on MachineCompare.com.
5. The Fees shall be paid every 28 days by the Client to the Brand Ambassador following the date in which the advertising rates set out in paragraph 3 were paid.