

Terms of service

* Timeline. Unless any delays arise, which are not caused by CMR, CMR shall complete the initial design of Merchant's website and/or mobile application (as applicable, the "Website") within 7 business days after the Effective Date. Merchant shall approve the Website or notify CMR of any requested changes or modifications to the Website within 14 business days. Merchant's failure to notify CMR of its approval or any requested changes or modifications to the Website within such fourteen (14) day period, the Website shall be approved, and CMR shall have no liability to Merchant for CMR taking the Website live online; provided, however, that CMR agrees to make any reasonable changes and modifications and update the Website thereafter. Any requested changes or modifications shall be completed by CMR within 25 business days of receipt, and CMR shall thereafter take the Website live online. CMR reserves the right to refuse any requested changes, modifications or updates thereafter for any reason whatsoever. Notwithstanding any of the foregoing, CMR shall have no liability for any delays to the above Website timeline which are not caused by CMR or otherwise beyond CMR's control, and, if the Website is not "live" within sixty (21) days from the Effective Date, Merchant hereby authorizes CMR to charge Merchant's account for the full amount of the agreement and begin billing.

TERMS AND CONDITIONS

The following terms and conditions (the “Terms and Conditions”) are attached to and form a part of that certain Agreement for Marketing Services (the “Agreement”) effective as of the date the Agreement has signed the Merchant (the “Effective Date”). As used herein, the term Merchant shall mean that person or entity identified in the Agreement as the Merchant and the term “CMR” shall mean CMR, Inc. having an address at 10999 Stahl Road, Newburgh, Indiana 47630. CMR and Merchant may each be referred to as a “Party” and collectively, as the “Parties”.

Merchant and CMR hereby agree to the following Terms and Conditions:

1.1. Term. If applicable, Social Media Posting and Blogging services shall commence on the Effective Date and continue for a period of six (6) months and shall thereafter automatically renew for additional consecutive six (6) month periods unless either Party provides at least thirty (30) days advance written notice of non-renewal of such services to the other party prior to the end of the then-current term. If applicable, Website Design/Mobile Application Design services and Core Local Listing services shall commence on the Effective Date and continue for a one (1) year period and shall thereafter automatically renew for additional consecutive one (1) year periods unless

either Party provides at least thirty (30) days advance written notice of non-renewal of such services to the other party prior to the end of the then-current term. CMR may at any time during the Term (i) change, modify, or amend the monthly fees charged to Merchant under this Agreement or (ii) change, modify, amend or discontinue one or more of the services provided under this Agreement; provided, however, that CMR shall provide thirty (30) days prior notice to Merchant in the event CMR discontinues any service. Notwithstanding the foregoing, CMR reserves the right to terminate this Agreement effective immediately upon the occurrence of (i) a breach by Merchant of the Agreement or these Terms and Conditions; or (ii) any actual or alleged fraud, misconduct, or illegal activity by Merchant. CMR reserves the right to terminate this Agreement effective immediately without any cause or reason.

1.2. Early Termination Fee. An early termination fee of \$500.00 if the Agreement is canceled by Merchant prior to the expiration of the Initial Term or Renewal Term.

2.1. Social Media Posting. The following Terms and Conditions shall be applicable to any Social Media Posting services provided to Merchant under this Agreement:

A. Social Media Accounts. The Social Media Posting services consists of CMR posting no more than once a business day (12:00 a.m to 11:59 p.m. Monday through Friday, except national and bank holidays) on not more than two of the following social media platforms: Facebook, Twitter and Google Plus (collectively, "Social Media Accounts"). Merchant agrees to activate and maintain during the performance of the Social Media Posting services by CMR hereunder the required Social Media Accounts. CMR is not responsible for activating, creating and maintaining Social Media Accounts. Merchant shall provide CMR all applicable login credentials to the applicable Social Media Accounts and shall promptly send CMR any updates, modifications or changes to Merchant's login credentials. Merchant acknowledges and agrees that CMR will have full access to the applicable Social Media Accounts and hereby grants CMR access to such Social Media Accounts. CMR is not responsible for any delays in its Social Media Posting services due to the Merchant's failure to comply with any of the above.

B. Content. All content posted by CMR on the Merchant's applicable Social Media Accounts shall be owned exclusively by CMR. Merchant hereby grants CMR a non-exclusive, royalty-free license to any and all trademarks, copyrights or other intellectual property of Merchant which may be used by CMR in the performances of the Social Media Posting services hereunder. Upon termination of the Social Media Posting services for any reason whatsoever, Merchant shall, and CMR shall have the right following any such termination to, remove any and all posts by CMR on the applicable Social Media Accounts.

2.2. Blogging. The following Terms and Conditions shall be applicable to any Blogging services provided to Merchant under this Agreement:

A. Content. All blogs and other writings posted on behalf of Merchant shall be owned exclusively by CMR. Merchant hereby grants CMR a non-exclusive, royalty-free license to any and all trademarks, copyrights or other intellectual property of Merchant which may be used by CMR in the performances of the Blogging services hereunder. Upon termination of the Blogging services for any reason whatsoever, Merchant shall, and CMR shall have the right following any such termination to, remove any and all blogs or blog posts created by CMR on behalf of Merchant.

B. Content Management System (Website Structure). Merchant acknowledges and agrees that CMR works solely within WordPress for purposes of its Blogging Services. Merchant agrees to maintain a website on a WordPress Content Management System, or such other system approved by CMR during the duration of the performance of the Blogging Services hereunder. To the extent CMR blogs or posts on a website of Merchant not created by CMR hereunder, such website must be constructed in a WordPress Content Management System or such other system approved by CMR.

CMR is not responsible for any delays in Blogging services caused by Merchant's failure to maintain a website with a content management system not approved by CMR and Merchant shall be responsible for any and all costs and fees associated with any new websites created by or for Merchant in order to comply with the terms hereof.

2.3. Website/Mobile Application Design. The following Terms and Conditions shall be applicable to any Website/Mobile Application Design services provided to Merchant under this Agreement:

A. Timeline. Unless any delays arise, which are not caused by CMR, CMR shall complete the initial design of Merchant's website and/or mobile application (as applicable, the "Website") within 7 business days after the Effective Date. Merchant shall approve the Website or notify CMR of any requested changes or modifications to the Website within 14 business days. Merchant's failure to notify CMR of its approval or any requested changes or modifications to the Website within such fourteen (14) day period, shall be deemed approval of the Website, and CMR shall have no liability to Merchant for CMR taking the Website live online; provided, however, that CMR agrees to make any reasonable changes and modifications and update the Website thereafter. Any requested changes or modifications shall be completed by CMR within 25 business days of receipt, and CMR shall thereafter take the Website live online. CMR

reserves the right to refuse any requested changes, modifications, or updates thereafter for any reason whatsoever. Notwithstanding any of the foregoing, CMR shall have no liability for any delays to the above Website timeline which are not caused by CMR or otherwise beyond CMR's control, and, if the Website is not "live" within sixty (60) days from the Effective Date, Merchant hereby authorizes CMR to charge Merchant's account for in the sum of the lesser of (i) \$500.00 or (ii) \$95 per hour for each hour spent by CMR to complete the design of the Website.

B. Content. Merchant agrees to timely provide all content used by CMR in the Website. CMR shall not be responsible for any incorrect or inaccurate content supplied by Merchant ("Merchant Content"). All photos, images, and other content must be delivered to CMR in a digital format and must comply with all applicable laws, including but limited to trademark, copyright, and other intellectual property laws. Except for trademarks and trade names of Merchant, all content, websites, domain names, registrations and other such property used in connection with the Website and the creation of the Website shall be owned exclusively by CMR. Merchant hereby grants CMR a non-exclusive, royalty-free license to any and all trademarks, copyrights or other intellectual property of Merchant which may be used by CMR in the Website. Merchant is responsible for ensuring that any and all content submitted to CMR is original content and does not and will not infringe on any third-party copyrights, trademarks, or other intellectual property rights. Merchant assumes full responsibility and hereby

releases CMR from any and all liability for any claims of infringement arising from the Website. CMR shall have the absolute right, at any time and with or without notice to Merchants to (i) suspend, disable, block, restrict or limit access to Merchant's Website (defined herein) or any portion thereof and/or (ii) take down and remove content or material from the Website, if doing so, in CMR's sole judgment, is necessary or advisable in order to comply with any applicable law or regulation or to protect Merchant or its corporate affiliates from actual or potential claims or liabilities, or for any content or material which CMR determines is offensive (including any pornographic images, any foul language, disparaging remarks, references to illegal substances, derogatory remarks regarding the religion, sexuality, politics, appearances or other characteristics or beliefs of any other person or entity, etc.).

C. Changes. The Website services provided hereunder includes monthly service and support which includes minor changes and updates to the Website. Merchant may request a change or modification to the Website at any time following the Website going "live" provided that such changes and modifications include any features and options provided and paid for in the initial Website and approved by CMR in its sole discretion. Merchant understands and agrees that it will be charged for any features or options that were not initially included in the Website services based on a separate quote provided by CMR. If changes outside of your initial invoice are requested, you will be provided with a separate quote for said changes. Except for any changes or modifications approved by CMR hereunder, once the Website goes "live," Merchant agrees that CMR

has satisfactorily rendered its Website services and that the Website is functional to the Merchant's satisfaction.

D. Domain Transfers. Merchant shall be responsible for the costs, fees and expenses related to any necessary domain transfers.

E. Hosting Issues/Exemptions. CMR is not responsible for any downtime or other issues arising from any server malfunctions. The Parties understand and acknowledge that CMR undertakes commercially reasonable efforts to operate the Website under Google's "Webmaster Guidelines" and makes no representations, warranties, or guarantees on any search engine optimization rankings. CMR is not responsible for any downtime, issues or security relating to the operation of the Website if the Website is not hosted on CMR's server.

2.4. ALyrt Text Marketing / Rewards Services. The CMR Rewards Terms and Conditions and Privacy Policy apply to the Text Messaging Services and can be found at the following links: http://login.alyrt.co/terms_of_use.asp

2.5. Core Local Listings. The following Terms and Conditions shall be applicable to any Core Local Listings services provided to Merchant under this Agreement:

A. Disclaimers. Merchant acknowledges and agrees that (i) certain services may involve the distribution of Merchant Content and/or other interactions with third parties (the “Publishers”) that own or operate online business directories, search websites, social media websites, mobile apps or other online properties (the “Publisher Sites”); (ii) all Merchant Content shall be subject to the Publishers’ character limits, quality standards and other applicable content policies, and that any such content may be rejected, in whole or in part, by a Publisher at any time in its sole discretion, or modified at any time to comply with such policies; (iii) CMR does not guarantee that any Merchant Content will be displayed on any Publisher Site; and (iv) the appearance and/or location of any Merchant Content may change at any time. Merchant further acknowledges and agrees that CMR shall have no liability for

any Publisher Sites, including their availability or any change in the Publisher Sites, for any decision by a Publisher to reject or modify any content submitted, or for any other decision, change or other action described in clauses (ii), (iii), or (iv) of the preceding sentence.

B. Updates and Additional Terms. CMR reserves the right to update, improve, replace, discontinue, modify or alter the specifications for or functionality of the services from time to time. Merchant agrees that its use of and access to certain services are subject to the “Relationship with Publishers” (defined below), and are incorporated into, and form a part of, this Agreement.

C. Relationship with Publishers.

a) CMR may add new publishers (“Publishers”) to your subscription from time to time. If a Publisher that is included in Merchant’s subscription is dropped from the network, or if that Publisher no longer accepts listings from clients that are not small businesses, then such Publisher will no longer be included in your subscription.

b) Publishers that are included in a subscription may incorporate Merchant’s location data within their databases and may make the location data available to their respective data clients both during and after the term of this Agreement. Notwithstanding anything

herein to the contrary, certain features of listings (for example, synchronization and directory publications) may not apply to data aggregators, submission Publishers or navigational Publishers.

c) Merchant may be required by certain Publishers to agree to such Publishers' terms and conditions or other policies regarding use of such Publisher Sites. In such event, if Merchant wishes to have content published on such Publisher's site, Merchant hereby agrees to comply with all such terms. Upon any actual or alleged failure to comply with such terms, in addition to CMR's other rights and remedies, CMR will have the right to immediately suspend access to that Publisher or suspend the provision of the applicable Service subscription(s) until such failure is cured by Merchant and/or, if directed by the Publisher, to terminate the applicable Service subscription.

d) Some features may require CMR to access, on Merchant's behalf, Publisher accounts and, as applicable, to post content to and/or retrieve content from such accounts. By using a feature that requires CMR to access such accounts, Merchant hereby consents to and authorizes CMR to access such accounts and, as applicable, to post content to and retrieve content from such accounts.

e) The locations purchased may be located in any country unless prohibited by law.

f) Duplicate suppression is available no more often than once every three months. CMR makes no guarantee that all duplicate listings will be identified and removed.

D. Photos and Videos. CMR may allow Merchant to link to and share public photos and videos posted on various social media sites. Merchant hereby represents and warrants to CMR that it has the full legal right, power, and authority to share, display or link any such photos or videos collected via this feature. Merchant further represents and warrants that it will not use this feature in a manner that would be: (i) unlawful, or (ii) infringe, violate, or otherwise interfere with any intellectual property right, privacy right, or publicity rights of another party. CMR reserves the right to withdraw Merchant's access to this feature at any time and for any reason.

3.1. Representations and Warranties; Disclaimer. Each Party represents and warrants that this Agreement constitutes its valid and binding obligations and is enforceable against it in accordance with the terms of this Agreement. CMR disclaims all other representations and warranties, whether implied by operation of law or otherwise,

including, without limitations, any implied warranties of merchantability, fitness for a particular purpose, non-infringement and any representations or warranties arising from a course of performance, course of dealing or usage of trade. This Section 3.1 shall survive the termination of this Agreement or any services provided hereunder.

4.1 Payments. Merchant shall make the upfront payment specified in the Agreement (the "Upfront Payment") upon the Effective Date. Monthly payments shall be due and payable on each month thereafter as specified in the Agreement. Merchant is responsible for any costs and fees associated with any rejected automated funds transfers or chargebacks in addition to a fee of Twenty-five Dollars (\$25.00) per occurrence. Merchant agrees to pay interest on any unpaid sums at the lesser of (a) the rate of eighteen percent (18%) per annum, compounded monthly or (b) the maximum rate allowed by applicable law.

5.1 Indemnity. Merchant shall defend, indemnify and hold harmless the CMR and its affiliates, and each of their respective officers, directors, employees and agents from and against any and all liabilities, losses, damages, claims, causes of action, judgments, lawsuits, and expenses (including attorneys' fees and litigation expenses) in connection with any third-party claim to the extent resulting from or based upon any of the following: (a) breach of this Agreement or any representation of Merchant hereunder

(b) failure of Merchant to pay any sums due hereunder; (c) based on any content created by CMR or supplied by Merchant for any of the services provided hereunder; (d) any negligent act, error or omission of Merchant; (e) fraud or other misconduct of Merchant; (f) any claims of infringement of copyright, trademark, patent or any other intellectual property right; or (g) otherwise related to the services provided by CMR under

this Agreement. Neither CMR nor any of its third-party content providers shall be liable for any damages, of any kind, whether direct, indirect, incidental, consequential, or punitive, otherwise, for any lost revenues or profits of any Merchant.

6.1 Privacy Statement. The Parties understand that, in connection with the services provided hereunder, CMR may collect additional personal information of Merchant including, but not limited to: credit card numbers, account number, bank account information, other financial or business information, personal clientele information, and any combination of personal information that could be used to determine Merchant's or third parties' identity(ies) ("Personally Identifiable Information"). Except as set forth herein, CMR shall not share any Personally Identifiable Information with any other third party. Personally Identifiable Information collected by CMR shall be securely stored and is not accessible to third parties or employees of CMR

except for use as indicated herein. CMR has entered into and will continue to enter into partnerships and other affiliations with a number of vendors, which vendors may have access to certain Personally Identifiable Information on a need-to-know basis for evaluating authorized merchants eligible for services provided by CMR. Merchant understands and acknowledges that CMR's privacy policy does not cover such vendor's collection or use of this information. CMR may disclose Personally Identifiable Information in order to comply with a court order or subpoena or a

request from a law enforcement agency to release such information. All employees of CMR are familiar with CMR's security policy and practices. The Personally Identifiable Information of Merchant is only accessible to a limited number of qualified employees. CMR shall take commercially reasonable measures to maintain the security of Personally Identifiable Information. Merchant understands and agrees that electronic communications and databases are subject to errors, tampering, and break-ins, and CMR cannot, and does not, guarantee or warrant that security breaches will not take place. CMR shall not be liable to Merchants for any such occurrences.

7.1 Marketing. CMR may reference Merchant (by name or logo) as a client of CMR and may use the Website and reference Merchant's Social Media Accounts in its marketing materials.

8.1 Limitation of Liability. In no event shall CMR be liable to Merchant for any amounts in excess of the sums paid by Merchant to CMR for the services provided hereunder during the twelve (12) months preceding the event giving rise to any claims by Merchant.

9.1 WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY WAIVER THEIR RIGHT, IF ANY, WHICH EITHER OR BOTH OF THEM WILL HAVE TO RECEIVE A TRIAL BY JURY WITH RESPECT TO ANY CLAIMS, CONTROVERSIES OR DISPUTES WHICH WILL ARISE OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF.

10.1 Attorney Fees. In the event CMR is the prevailing party in any legal proceedings relating to this Agreement, CMR will be entitled to recover against Merchant, in addition to all other remedies or damages, reasonable attorney fees and costs incurred in such proceedings.

11.1 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana. The Parties hereby agree and consent that the exclusive, proper and preferred venue of any claim or cause of action concerning this Agreement shall lie in the Vanderburgh Circuit or Superior Courts in

Evansville, Indiana, or the United States District Court for the Southern District of Indiana, Evansville Division.

12.1 Agreement Signature: As the person signing on behalf of the business designated on the Agreement as the Merchant, I certify that I am an owner, partner or officer of the Merchant and have been duly authorized to sign this Agreement and bind the Merchant to the Agreement. Merchant hereby acknowledges and agrees that Merchant has read this Agreement and agrees to be bound by the Terms and Conditions. Merchant (and Guarantor when applicable) certifies that all information provided in this Agreement is true, correct and complete. Merchant and CMR

agree that the Agreement and the transaction contemplated thereby may be transacted electronically and the electronic signatures thereon shall be deemed original signatures for all purposes. By signing the Agreement, I agree that all fees have been sufficiently explained to me. As an authorized signer on the checking account identified in the Agreement, I authorize CMR to perform electronic funds transfer debit and/or credits from the account for payments due or when applicable, apply electronic funds transfer credits. It is my responsibility to inform CMR of any bank

changes on recurring transactions. By signing this Agreement, I understand and authorize all of the above charges and agree to the term of contract outlined in the Terms and Conditions, and each term following unless cancelled 30 days prior to the

end of the current term. All monthly dues are prorated for the first month and charges begin within 10 days after the date signature on this Agreement. In the event I cancel this agreement before the end of the initial term, I understand that CMR will charge me the total of the remaining monthly fees at the time of cancellation in addition to the Termination Fee. I also agree that if I cancel the credit card processing agreement, but wish to maintain my CMR marketing services, my monthly fee for these services will change to the applicable monthly fee.