

## MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT (this “*Agreement*”) is made and entered into as of \_\_\_\_\_, 20\_\_ (the “*Effective Date*”) by and between Course Cats, LLC, a Missouri limited liability company (the “*Company*”), and \_\_\_\_\_, a(n) \_\_\_\_\_ (the “*Promoter*”). The Promoter and the Company may sometimes hereinafter be referred to individually as a “*party*” or jointly as the “*parties*.”

In consideration of the covenants, promises, representations and warranties set forth herein, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties), intending to be legally bound hereby, the parties agree as follows:

**1. Scope of Services.** Promoter shall perform the services (the “*Services*”) for the Company as described in a Statement of Work (“*SOW*”) executed pursuant to this Agreement. Each SOW executed pursuant to this Agreement shall be attached hereto as part of Exhibit A. From time to time, the parties may execute additional SOWs, each of which shall be numbered chronologically, as Exhibit A-1, A-2, etc., and appended to this Agreement upon their execution. Such SOWs shall identify the Services to be performed, provide specifications, instructions, and compensation to be paid, but shall not modify any other term or condition of this Agreement, and without the need for reference shall incorporate all terms and conditions of this Agreement. In the event there is a conflict between the SOW and the Agreement, the terms and conditions of the Agreement prevail. This is not an exclusive arrangement. Further, Company makes no guarantee that it will seek any minimum amount of Services under this Agreement.

**2. Payment.** In consideration for the provision of the Services by the Promoter, the Promoter shall be paid at the rate indicated in a SOW. The fees described in a SOW are Company’s sole compensation obligation to Promoter for rendering Services to the Company.

**3. Term.** This Agreement shall commence on the Effective Date and shall continue in effect for a period of one (1) year, and shall be automatically extended for successive one (1) year terms unless it is terminated earlier in accordance with Section 4 hereof. In the event that the term of a SOW extends beyond the termination of this Agreement, or the parties execute additional SOWs after the termination of this Agreement without executing a successor agreement or an amendment extending this Agreement’s term, this Agreement shall be automatically extended for the duration of the term of such a SOW.

**4. Early Termination.** Notwithstanding anything to the contrary contained in this Agreement, the Company may terminate this Agreement immediately for any reason or for no reason and, in such event, the Promoter shall immediately stop performing all Services (unless otherwise directed by the Company in writing), and the Company shall have no further obligation or liability to the Promoter other than to make any payments of fees and expense reimbursements required pursuant to Section 2 hereof on account of Services performed prior to such termination, *provided, however*, in the event the Company terminates this Agreement due to a violation of Section 6.7(i)-(iv) hereof, the Company shall have no obligation to make any payments beyond the date such violation occurred or began.

**5. No Publicity.** As indicated in Section 5 above, Promoter will maintain the existence of this Agreement with Company as Confidential Information. Promoter shall derive no rights in the names or marks of Company, nor shall it use the names or marks of the Company, other than as expressly contemplated in a SOW, and then only to the extent necessary to perform the Services. Promoter shall not include work done for Company in case studies, white papers, or similar materials, even when such materials do not identify Company by name.

## 6. Ownership rights.

6.1. Rights to Deliverables. Company shall own all intellectual property rights in the Deliverables. “**Deliverables**” means any work product (including but not limited to any intellectual property rights) developed by Promoter in connection with its performance of the Services under this Agreement. “**Intellectual Property Right(s)**” shall mean any and all right, title and interest (including all patent, patent registration, copyright, trademark, trade name, service mark, service name, trade secret, or other proprietary right arising or enforceable under any United States federal or state law, rule or regulation, non-United States law, rule or regulation or international treaty) in any technology, system, invention, medium, or content, including print, pictures, photographs, video, marks, logos, designs, drawings, artistic and graphical works, music, speech, computer software and documentation, any other works of authorship and any form, method or manner of expression or communication.

6.2. Assignment of Deliverables. The Promoter agrees that all Deliverables which the Promoter or any of its employees or subcontractors makes, conceives, reduces to practice or develops (in whole or in part, either alone or jointly with others) as part of the provision of the Services shall be the sole property of the Company. The Promoter agrees to assign (and/or to cause its employees or subcontractors to assign) and hereby does assign to the Company all title, patents, patent rights, copyrights, trade secret rights, sui generis, database rights, and other intellectual or industrial property rights of any sort anywhere in the world (collectively, “**Rights**”) to all such Deliverables. The Company shall be the sole owner of all Rights in connection such Deliverables. Without limiting the generality of the foregoing, the Promoter acknowledges and agrees that all such Deliverables shall be deemed to be “works made for hire” within the meaning of the U.S. Copyright Act, and the copyright and all other Rights to such Deliverables shall be owned solely, completely and exclusively by the Company.

6.3. Assistance by Promoter. The Promoter agrees to perform, during and after the term of this Agreement, all acts deemed necessary or desirable by the Company to permit and assist it in evidencing, perfecting, obtaining, maintaining, defending and enforcing Rights and/or the Promoter’s (or any of its employees’ or subcontractors’) assignment with respect to such Deliverables in any and all countries. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in legal proceedings. The Promoter hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as the Promoter’s agents and attorneys-in-fact to act for and on behalf and instead of the Promoter, to execute and file any documents and to do all other lawfully permitted acts to further the above purposes with the same legal force and effect as if executed by the Promoter.

6.4. Moral Rights. Any assignment of copyright hereunder includes all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights” (collectively, “**Moral Rights**”). To the extent such Moral Rights cannot be assigned under applicable law and to the extent the following is allowed by the laws in the various countries where Moral Rights exist, the Promoter hereby waives such Moral Rights and consents to any action of the Company that would violate such Moral Rights in the absence of such consent. The Promoter will confirm any such waivers and consents from time to time as requested by the Company.

6.5. Company Information and Materials. All information and materials, including computer software, provided to Promoter by Company in connection with the Services, including modifications, changes and derivatives thereto or otherwise made available to the Promoter by the Company (the “**Company Materials**”) are and shall remain the property of Company or its licensors, whom shall retain all intellectual property rights therein. Promoter obtains no right, title, or interest therein, except that Promoter may use the

Company Materials for the sole, exclusive and limited purpose of performing the Services in accordance with this Agreement. Promoter shall comply with the terms of any license or other agreement applicable to such Company Material of which it is given notice by Company. Promoter shall not encumber the Company Materials in any way, and promptly shall return to Company any and all Company Materials in Promoter's possession or control upon Company's request and in any event upon termination or expiration of this Agreement.

6.6. Promoter Information and Materials. To the extent that Promoter brings to bear in its performance of the Services the Promoter's proprietary software, methodologies, techniques and tools which are assets of Promoter prior to the execution of a SOW or which are developed by Promoter independent from its performance under this Agreement (collectively, "**Promoter Properties**"), such Promoter Properties shall remain the sole and exclusive property of Promoter. To the extent that Promoter Properties are embedded in, or required to be used in connection with, any Deliverable, Promoter hereby grants to Company a nonexclusive, irrevocable, world-wide, perpetual, fully paid up and royalty-free license for Company, Company affiliates and their third party service providers to use, copy, modify, maintain, support, and create derivative works of such Promoter Properties solely in connection with Company's internal business processes and requirements.

6.7. Know-How. Nothing contained in this Agreement shall restrict either party from the use of any ideas, concepts, know-how, methodologies, processes, technologies, algorithms or techniques relating to the Services which such party retains as mental impressions, provided that in doing so such party does not infringe the Intellectual Property Rights of the other party or third parties who have licensed or provided intellectual property to the other party. Notwithstanding the foregoing, the Promoter shall be prohibited from (i) creating any website, video or other deliverable, other than those governed by this Agreement, that copies, recreates, simulates and/or incorporates, in any way, the design, layout, formatting, or framing of any of the Company's videos, websites, templates, copyright protected text, branding, or logos, (ii) creating any website, video or other deliverable that attempts to sell products similar to those offered by Company or otherwise may be used to compete with Company and/or the services Company provides, (iii) seeking to purchase or register any keywords, search terms or other identifiers related to the trademarks of the Company or the trade or service marks or names of Company's primary competitors, including misspellings or variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Company; or (iv) seeking to purchase or register any domains or other identifiers that include variations on the trade or service marks or names of the Company intended to approximate misspellings or typographical mistakes of same or which otherwise would constitute typo or domain squatting, including variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Company.

## **7. Warranties of Promoter.**

7.1. The Promoter's performance under this Agreement shall be conducted with due diligence and in full compliance with high professional standards for Promoter's industry. The Promoter shall comply with all applicable laws, rules and regulations in the course of performing the Services.

## **8. Indemnity by Promoter.**

8.1. The Promoter represents and warrants that any and all Deliverables that the Promoter will create under this Agreement will not violate the proprietary rights of any third party. Promoter agrees to indemnify, defend and hold harmless Company and Company affiliates and their respective officers, directors, employees, agents, successors, and assigns, from any losses related to, arising from, or in

connection with any third party claim related to, arising from, or in connection with the actual or alleged infringement of the Services or Deliverables of any third party proprietary rights.

## **9. Remedies.**

9.1. If the Promoter violates any provision of this Agreement, the Company shall, in addition to any damages to which it is entitled, be entitled to seek immediate injunctive relief against the Promoter prohibiting further actions inconsistent with the Promoter's obligations under this Agreement.

9.2. To the extent a Party is required to seek enforcement of this Agreement or otherwise defend against an unsuccessful claim of breach, the unsuccessful Party shall be liable for all attorney's fees and costs incurred by the successful party to enforce the provisions of this Agreement.

9.3. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise. Despite the previous sentence, the Parties intend that the Promoter's exclusive remedy for Company's payment breach shall be its right to damages equal to its earned but unpaid fees.

## **10. General.**

10.1. Notices. All notices, requests and other communications hereunder shall be in writing and will be deemed to have been given on the date of receipt if (i) delivered personally against written receipt, or (ii) by facsimile transmission against facsimile confirmation, or (iii) mailed return receipt requested, or (iv) delivered by nationally recognized overnight courier, to the parties at the following addresses or facsimile numbers:

If to Company to:

Company Name: Course Cats, LLC  
Address: 9648 Olive Blvd., Suite 352  
City, State, Zip: Olivette, MO 63132  
Attn:  
Email:

*With copy to:*

Stock Legal, LLC  
Attn: Sara K. Stock  
4512 West Pine Blvd.  
St. Louis, Missouri 63108  
[sara.stock@stocklegal.com](mailto:sara.stock@stocklegal.com)

If to the Promoter to:

Company/Individual Name:  
Address:  
City, State, Zip:  
Attn:

Facsimile No.:

Email:

10.2. Entire Agreement; Modification. This Agreement constitutes the entire agreement among the parties with respect to the Services and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement may be amended or modified only by an instrument in writing duly executed by the parties to this Agreement.

10.3. Waiver. No waiver by any party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by law or otherwise afforded, will be cumulative and not alternative.

10.4. No Assignment; Binding Effect. Neither this Agreement nor any right, interest or obligation hereunder may be assigned (by operation of law or otherwise) by any party without the prior written consent of the other party and any attempt to do so will be void; provided, however, that the Company may, upon notice to the Promoter but without being obligated to obtain the Promoter's consent, assign this Agreement or any of its rights, interests or obligations hereunder to an affiliate of the Company. Subject to the preceding sentence, this Agreement is binding upon, inures to the benefit of and is enforceable by the parties hereto and their respective successors and assigns.

10.5. Independent Contractor. Nothing herein contained shall be deemed to create an agency, joint venture, partnership or franchise relationship between the parties. The Promoter acknowledges that the Promoter is an independent contractor to Company, that it is not authorized to act on behalf of the Company, and that none of its employees or subcontractors is an employee of the Company or is entitled to any Company employment rights or benefits. The Promoter further acknowledges and agrees that the Promoter, on behalf of itself and its employees and subcontractors, waives any and all rights the Promoter has, or may have, against the Company under the Employee Retirement Income Security Act of 1974. The Promoter shall be solely responsible for any and all tax obligations of the Promoter arising from or relating to this Agreement, including but not limited to, all city, state and federal income taxes, social security withholding tax and other self employment tax incurred by the Promoter, and shall indemnify and hold harmless the Company against any liabilities, costs and expenses suffered or incurred by the Company as a result of any determination by the Internal Revenue Service or any other taxing authority that any employee or subcontractor of the Promoter is an employee of the Company.

10.6. Survival. Rights and obligations under this Agreement which by their nature should survive, including, but not limited to any warranties, indemnities, limitation of liabilities and all payment obligations, will remain in effect after termination or expiration hereof.

10.7. Severability. Any term or provision of this Agreement that is invalid, illegal or unenforceable in any situation in any jurisdiction shall not affect the validity, legality or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If such invalidity, illegality or unenforceability is caused by length of time or size of area, or both, the otherwise invalid provision shall be, without further action by the parties, automatically amended to such reduced period or area as would cure such invalidity, illegality or unenforceability; provided, however, that such amendment shall apply only with respect to the operation of such provision in the particular jurisdiction in which such determinations is made.

10.8. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Missouri, without giving effect to any choice of law or conflict of law provision

or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri.

10.9. Interpretation. The parties hereto agree that this Agreement is the product of negotiation between sophisticated parties and individuals, all of whom were represented by, or had an opportunity to be represented by legal counsel, and each of whom had an opportunity to participate in, the drafting of each provision hereof. Accordingly, ambiguities in this Agreement, if any, shall not be construed strictly or in favor of or against any party hereto but rather shall be given a fair and reasonable construction. If there is any ambiguity between the SOW and this Agreement, this Agreement shall govern.

10.10. Counterparts; Facsimile Execution. This Agreement may be executed and delivered (i) in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument, and/or (ii) by facsimile, in which case the instruments so executed and delivered shall be binding and effective for all purposes.

IN WITNESS WHEREOF, the Company and the Promoter have executed this Agreement as of the date first written above.

**PROMOTER:**

**COMPANY:**

**Course Cats, LLC**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

## EXHIBIT A-1

### SOW

**Dated:** \_\_\_\_\_

This Statement of Work ("**SOW**") is Exhibit A-1 to the Master Services Agreement, entered into as of \_\_\_\_\_, 20\_\_ by and between Course Cats, LLC, a Missouri limited liability company (the "**Company**"), and \_\_\_\_\_, a \_\_\_\_\_ (the "**Promoter**").

#### **1. PROMOTION**

The "Promotion" shall involve the marketing of Company's products or programs (the "Product") by the Promoter. The Promotion shall include driving traffic to the Company's websites (the "Sites").

#### **2. ELIGIBILITY**

2.1 Promoter must be 18 years or older to participate in Promotion and in good standing with the Federal Trade Commission (the "FTC") and the Company, and in compliance with all FTC guidelines and the term of this Agreement.

2.2 Promoter agrees and understands that if its marketing, websites, emails or any other communications associated with or for this Promotion are deemed inappropriate that Promoter will be deemed, at the sole discretion of the Company, ineligible to participate in the Promotions and disqualified from receiving any recognition, commissions, prizes or any other compensation or further communication from the Company. Promoter will be immediately removed from this Promotion and from Company's Promoter Program and will be in violation of this Agreement if, at the sole discretion of the Company, its marketing for this Promotion or for its own websites:

- a) contains, promotes or links to sexually explicit or violent material,
- b) promotes, depicts or links to material that promotes or depicts discrimination based on race, gender, religion, national origin, physical or mental disability, sexual orientation, or age,
- c) contains unlawful material, including but not limited to materials that may violate another's intellectual property rights, or links to a site that contains such material,
- d) contains information regarding, promotes or links to a site that provides information or promotes illegal activity,
- e) offers a cash incentive or discount on product(s) as a means of promotion, or
- f) for any other reason that is deemed by us to be unsuitable by the Company including just being sketchy.

#### **3. SPAM AND UNSOLICITED EMAIL**

Promoter agrees NOT to send any unsolicited email to any party during the Promotion. Company has ZERO tolerance toward any Promoter who spams any party or individual, period. If Promoter is caught spamming, they will be removed as a Promoter of the Company, and Promoter's commissions or pending commissions will be canceled and/or forfeited. Spam is defined as emailing or posting to anyone who has not requested information via email or any website, and also includes 'spamming search engines' with links. Promoter agrees to abide by all FTC Guidelines and the CAN-SPAM Act of 2003.

#### **4. COMMISSIONS**

4.1 Promoter will receive about 30% of referred sales in U.S. dollars for every sale of the Product that is directly referred by the Promoter to one of Company's Sites through the Promoter's unique link or cookie.

4.2 Commissions are not paid on, and will not include, a single sale to the Promoter themselves, meaning Promoter cannot purchase the Product for their own use through their link and receive a commission on that sale. Promoter commissions are counted and final numbers are deemed final at the sole discretion and decision of the Company.

4.3 Commission payments will be sent to Promoter by the Company via Paypal or check beginning 30 days after the program has started. Because quarterly/yearly subscription payments are required by customers who purchase the Product, Promoter should expect to receive approximately 30% of each collected subscription payment every quarter/year after the initial payment until the customer has cancelled the subscription with the Company for the Product. If a sale is canceled or refunded for any reason, any paid commission will be deducted from the amount owed to the Promoter and any subsequent payment. Promoters will not be paid a commission on sales or orders that are in delinquent status. If payments for delinquent customers are received within 90 days of the start date of the program, the Promoter will be paid their commission. However if delinquent payments are not received within 90 days after the start of the Program, then Promoter will not be paid a commission on that sale. Promoter commissions will not be paid based on any sales or amounts that are attributed to spam, credit card fraud, or returned Product. Company reserves the right to change the dates of the commission payout.

4.4 Promoters must provide their Paypal address or address for check (and depending on the amount Promoter earns) complete the W-9 and any tax information sent by the Company before receiving any commission payments. Company is NOT responsible for Promoter using or maintaining their Promoter links and only sales tracked through the Company's system will count towards the Promoter's commissions. All sales and commission numbers are tallied by the Company and credit due to the Promoter and all the final sales and commission numbers are at the sole discretion of the Company. Company makes every reasonable effort to accurately track and pay commissions for all sales that come from Promoters, but it not responsible nor under any circumstances will be held liable for any technical difficulties, outside events, actions by other Promoters, or other uncontrollable events that may disrupt or interfere with Company's ability to do track sales or pay commissions. Under no circumstances will Company be held liable for any indirect, incidental, special or consequential damages or any loss of revenue or profits that result from Promoter's participation in this Promotion.

## **5. LINKS**

Company will provide Promoter with Links to this Promotion as well as any related banners, graphics, or text ads necessary to promote and offer the Product to the Promoter's customers via the Promoter's Sites or emails. Promoter may ONLY utilize their unique link provided by the Company on the Promoter's own websites or emails. Promoter may NOT post their link on other websites that are not owned or maintained by the Promoter or the Promoter's brand, with the exception of ads or social media placements. Spamming the internet with links outside of Promoter's direct email list, websites or social media pages will be considered a violation of this Agreement and result in a denial of all Promoter benefits, prizes and commissions. Promoter may not use unsolicited commercial email, spam, search engine spam, or other illegal or unethical means by which to generate referral commissions. Promoter may also not purchase the Product through their link for personal use and receive a commission on that sale. Links are intended to drive new customers to the Promotion. All customer information collected during the Promotion shall be owned by the Company and it is at the sole discretion of the Company whether or not the customer information will be shared with the Promoter.

## **6. RESTRICTIONS**

Promoter may not:

- a) read, intercept, record, redirect, interpret, or fill in the contents of any electronic form or other materials submitted to Company by any person or entity;

- b) take any action that could reasonably cause any customer confusion as to Promoter's relationship with Company, or as to the site on which any functions or transactions (e.g., search, order, browse, and so on) are occurring;
- c) frame the Promoter's website to look like the Company's website or to utilize the Company's branding in any way that would confuse customers or the general public as to who is hosting or promoting such a website;
- d) seek to purchase or register any keywords, search terms or other identifiers related to the trademarks of the Company or the trade or service marks or names of Company's primary competitors, including misspellings or variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Company; or
- e) seek to purchase or register any domains or other identifiers that include variations on the trade or service marks or names of the Company intended to approximate misspellings or typographical mistakes of same or which otherwise would constitute typo or domain squatting, including variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Company.

IN WITNESS WHEREOF, the Company and the Promoter have executed this SOW as of the date first written above.

**PROMOTER:**

**COMPANY:**

**Course Cats, LLC**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date: