

# Asymmetric Marketing Fulfillment Policy

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Asymmetric Marketing LLC. and/or its affiliates ("Asymmetric", "we" or "us") operate a digital marketing agency ("Agency Site") located at [asymmetric.pro](https://asymmetric.pro) from which you may purchase services ("Agency Site Services").

These Terms of Use apply to the content and functionality of the Agency Site, and to the Agency Site Services. These Terms of Use do not apply to services that we make available pursuant to different terms.

## Information that you provide to us

You may give us information about yourself when you visit the Agency Site. Our [Privacy Policy](#) explains our practices with respect to that information. We may need to send you email and text messages in order to, for example, verify your identity or provide you with important information. You authorize us to send those messages when you visit the Agency Site and provide your contact details.

Standard text or data charges may apply to text messages. Where offered, you may disable text message notifications by responding to any such message with "STOP", or by following instructions provided in the message. However, by disabling text messaging, you may be disabling important security controls which may increase the risk of loss to your business.

## Agency Site IP

Asymmetric and its licensors exclusively own all rights, title, and interest in the patents, copyrights (including rights in derivative works), moral rights, rights of publicity, trademarks or service marks, logos and designs, trade secrets, and other intellectual property embodied by, or contained in the Agency Site (collectively, "Agency Site IP"). Agency Site IP is protected by copyright, trade secret, patent, and other intellectual property laws, and all rights in Agency Site IP not expressly granted to you in these Terms of Use are reserved.

You may choose to or we may invite you to submit comments or ideas about improvements to the Agency Site or our products or services ("Ideas"). If you submit an Idea to us, we will presume that your submission was voluntary, unsolicited by us, and delivered to us without any restrictions on our use of the Idea. You also agree that Asymmetric has no fiduciary or any other obligation to you in connection with any Idea you submit to us, and that we are free to use your Ideas without any attribution or compensation to you.

## Access to Agency Site

Asymmetric grants you a limited, revocable, non-exclusive, non-transferable license to access the Agency Site. This license does not include a right to use any of the content and information, including product listings.

## Services, Content and Specifications

Details of the services and services available for purchase on the Agency Site ("Agency Site Services") are set out in the Agency Site. All features, content, specifications, services, and prices of services and services described or

depicted in this Agency Site are subject to change at any time without notice. The inclusion of any services in the Agency Site at a particular time does not imply or warrant that these services will be available at any time.

Occasionally, the availability of a certain service may be delayed for a number of reasons. In such event, we will make reasonable efforts to notify you of the delay and keep you informed of the revised delivery schedule. By placing an order, you represent that the services ordered will be used only in a lawful manner.

## **Subscriptions**

Subscription terms. We may offer you the ability to purchase subscriptions via the Agency Site. Terms specific to a subscription will be disclosed to you at or prior to the time at which you purchase the subscription, and by purchasing the subscription you are agreeing to those terms.

Free trials and promotional periods. If a subscription commences with a free trial or a promotional period, you will have the right to cancel the subscription prior to the end of the trial or period. If we do not provide you with an online cancellation mechanism, then you may exercise this cancellation right by [contacting us](#).

We will email you prior to the end of the free trial or promotional period to remind you that the trial or period is coming to an end, and to give you an opportunity to cancel before the commencement of the paid period. If you do not cancel, we will bill you at the end of the free trial or promotional period, and your subsequent cancellation rights will be in accordance with the terms specific to the subscription.

Cancellation. Your cancellation rights, and the mechanism via which you may notify us of your decision to cancel, will be disclosed to you at or prior to the time at which you purchase a subscription.

## Your Account

We may require that you create an account to access the Agency Site, including to make purchases. If we do so, you must provide accurate information about yourself when you create an account and ensure that you update us if that information changes.

You must ensure that your login details remain confidential. You are responsible for any activity, including any purchases made, under your account. We reserve the right to terminate your account at any time and for any reason.

## Shipping and Returns

This Section applies to Agency Site products that are physical goods. For clarity, this section applies despite any contrary terms in any invoice or purchase order.

Orders are shipped using carriers selected by Asymmetric. The shipping fees you will be charged, if any, will be provided to you before you confirm your order. If we provide you with an estimated shipping date, the estimated delivery date is not guaranteed, and inventory shortages or events beyond our control could impact the delivery date. Asymmetric is not liable for delivery later than the estimated delivery date, or for any loss, damage, or penalty you may incur from a delay in shipment or delivery. Unless otherwise noted in the product description, each product will be delivered FCA delivery location (as such location is designated on the applicable order) (Incoterms 2010).

Unless otherwise noted in the product description, products may be returned in their original packaging and condition (including all accessories and components provided) within 30 days of purchase. However, unless we tell you otherwise, you will only be entitled to a refund if we provide you with an item that does not match the product description of the item that you purchased. If that occurs, your exclusive remedy is to return the item in unused condition, in exchange for a refund. To begin the return process, please [contact us](#).

Return shipping instructions will be provided. Asymmetric will cover the cost of return shipping and will refund your purchase price in full.

## **Sanctions and Export Policy**

You may not use the Agency Site or purchase any Agency Site Product in or for the benefit of a country, organization, entity, or person embargoed or blocked by any government, including those on sanctions lists identified by the [United States Office of Foreign Asset Control \(OFAC\)](#). We do not claim, and we cannot guarantee that the Agency Site or any Agency Site Product is or will be appropriate or available for any location or jurisdiction, comply with the laws of any location or jurisdiction, or comply with laws governing export, import, or foreign use.

## **No Warranties**

We provide the Agency Site, Agency Site IP and Agency Site services "as is" and "as available", without any express, implied, or statutory warranties of title, merchantability, fitness for a particular purpose, noninfringement, or any

other type of condition, warranty or guarantee. No data, documentation or any other information provided by Asymmetric or obtained by you from or through the Agency Site - whether from Asymmetric or another entity, and whether oral or written - creates or implies any warranty from Asymmetric to you.

Asymmetric disclaims any knowledge of, and does not guarantee: (a) the accuracy, reliability, or correctness of any data provided through the Agency Site; (b) that the Agency Site services will meet your specific needs or requirements; (c) that the Agency Site will be available at any particular time or location, or will function in an uninterrupted manner or be secure; (d) that Asymmetric will correct any defects or errors in the Agency Site; or (e) that the Agency Site is free of viruses or other harmful code. Use of data, services or services that you access, purchase or download through the Agency Site is done at your own risk - you are solely responsible for any damage to your property, loss of data, or any other loss that results from such access, purchase or download.

Nothing in these Terms of Use operates to exclude, restrict or modify the application of any implied condition, warranty or guarantee, or the exercise of any right or remedy, or the imposition of any liability under law to the extent that doing so would: (a) contravene that law; or (b) cause any term of this agreement to be void.

### **Limitation of Liability**

Under no circumstances will Asymmetric be responsible or liable to you for any indirect, punitive, incidental, special, consequential, or exemplary

damages resulting from your use or inability to use the Agency Site or for the unavailability of the Agency Site, or for lost profits, personal injury, or property damage, or for any other damages arising out of, in connection with, or relating to these Terms of Use or your use of the Agency Site, even if such damages are foreseeable, and whether or not you or the Asymmetric has been advised of the possibility of such damages.

Asymmetric is not liable, and denies responsibility for, any damages, harm, or losses to you arising from or relating to hacking, tampering, or other unauthorized access or use of the Agency Site or your failure to use or implement anti-fraud measures, security controls, or any other data security measure. Asymmetric further denies responsibility for all liability and damages to you or others caused by (a) your access or use of the Agency Site inconsistent with our instructions; (b) any unauthorized access of servers, infrastructure, or data used in connection with the Agency Site; (c) any bugs, viruses, or other harmful code that may be transmitted to or through the Agency Site; (d) any errors, inaccuracies, omissions, or losses in or to any data provided to us; (e) third-party content provided by you; or (f) the defamatory, offensive, or illegal conduct of others.

You agree to limit any additional liability not disclaimed or denied by Asymmetric in relation to the Agency Site, Agency Site IP, and Agency Site services, to your direct and documented damages; and you further agree that under no circumstances will any such liability exceed in the aggregate the greater of the amounts paid by you to Asymmetric during the three-month period immediately preceding the event that gave rise to your claim for

damages, and USD \$20.

These limitations on our liability to you will apply regardless of the legal theory on which your claim is based, including contract, tort (including negligence), strict liability, or any other theory or basis.

## Disputes

a. Binding Arbitration: In the event that there is a dispute, claim or controversy arising out of or relating to statutory or common law claims, the breach, termination, enforcement, interpretation or validity of any provision of these Terms of Use, and the determination of the scope or applicability of your agreement to arbitrate any dispute, claim or controversy originating from these Terms of Use, but specifically excluding any dispute principally related to either party's intellectual property (which such dispute will be resolved in litigation before the United States District Court for the Western District of Wisconsin), will be determined by arbitration in Madison, Wisconsin before a single arbitrator.

The arbitration will be administered by the American Arbitration Association under its Commercial Arbitration Rules. The Expedited Procedures of the American Arbitration Association's Commercial Arbitration Rules will apply for cases in which no disclosed claim or counterclaim exceeds \$75,000 (exclusive of interest, attorneys' fees and arbitration fees and costs). Where no party's claim exceeds \$25,000 (exclusive of interest, attorneys' fees and arbitration fees and costs), and in other cases in which the parties agree, Section E-6 of the Expedited Procedures of the American Arbitration

Association's Commercial Arbitration Rules will apply. The arbitrator will apply the substantive law of the State of Wisconsin, exclusive of its conflict or choice of law rules. If the American Arbitration Association is no longer in business, or refuses or declines to administer any dispute between the parties brought before it, either party may petition the United States District Court for the Western District of Wisconsin to appoint the arbitrator.

Nothing in this paragraph will preclude the parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the provisions in this paragraph referencing applicable substantive law, the Federal Arbitration Act (9 U.S.C. §§ 1-16) will govern any arbitration conducted pursuant to these Terms of Use. Either party may commence arbitration by providing to the American Arbitration Association and the other party to the dispute a written demand for arbitration, setting forth the subject of the dispute and the relief requested.

b. Service of Process: Each party hereby irrevocably and unconditionally consents to service of process through personal service at their corporate headquarters, registered address, or primary address (for individuals or sole proprietors). Nothing in these Terms of Use will affect the right of any party to serve process in any other manner permitted by law.

c. Class Waiver: To the fullest extent permitted by law, each of the parties agrees that any dispute arising out of or in connection with these Terms of Use, whether in arbitration or in court, will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any

reason a claim or dispute proceeds in court rather than through arbitration, each party knowingly and irrevocably waives any right to trial by jury in any action, proceeding or counterclaim arising out of or relating to these Terms of Use or any of the transactions contemplated between the parties.

d. Provision of an Award: Subject to the limitations of liability identified in these Terms of Use, the appointed arbitrators may award monetary damages and any other remedies allowed by the laws of the State of Wisconsin. In making a determination, the arbitrator will not have the authority to modify any term or provision of this Agreement. The arbitrator will deliver a reasoned written decision with respect to the dispute (the "Award") to each party, who will promptly act in accordance with the Award. Any Award (including interim or final remedies) may be confirmed in or enforced by a state or federal court located in Madison, Wisconsin. The decision of the arbitrator will be final and binding on the parties, and will not be subject to appeal or review.

e. Fees: Each party will advance one-half of the fees and expenses of the arbitrators, the costs of the attendance of the arbitration reporter at the arbitration hearing, and the costs of the arbitration facility. In any arbitration arising out of or related to these Terms of Use, the arbitrators will award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with those aspects of its claims or defenses on which it prevails, and any opposing awards of costs and legal fees awards will be offset.

f. Confidentiality: The parties will maintain the confidential nature of the arbitration proceeding, the hearing and the Award, except (i) as may be

necessary to prepare for or conduct the arbitration hearing on the merits, (ii) in connection with a court application as contemplated above for a preliminary remedy, or confirmation of an Award or its enforcement, (iii) our disclosure of the Award in confidential settlement negotiations, or (iv) as otherwise required by applicable laws. The parties, witnesses, and arbitrator will treat as confidential and will not disclose to any third person (other than witnesses or experts) any documentary or other evidence produced in any arbitration hereunder, except as required by law or except if such evidence was obtained from the public domain or was otherwise obtained independently from the arbitration.

g. Conflict of Rules: In the case of a conflict between the provisions of this section and the rules governing arbitration identified in herein, the provisions of this section will prevail. If any provision of these Terms of Use to arbitrate is held invalid or unenforceable, it will be so held to the minimum extent required by law and all the other provisions will remain valid and enforceable.

### **Applicable law**

By using the Agency Site, you agree that the laws of the state of Wisconsin, USA, without regard to principles of conflict of laws, will govern these Terms of Use and any dispute of any sort that might arise between you and Asymmetric.

## **Modification and Severability**

We have the right to change or add to the terms of these Terms of Use at any time, solely with prospective effect, and to change, delete, discontinue, or impose conditions on use of the Agency Site by posting such changes on our website or any other website we maintain or own. You can access a copy of the current version of these Terms of Use on our website at any time. You can find out when these Terms of Use were last changed by checking the "Last updated" date at the top of the page.

## **Our Address**

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