

# KOL MANAGER AGREEMENT

## DATE:

This Key Opinion Leader (“KOL”) Manager Agreement (“Agreement”) is made between NONFICTION MARKETING SDN. BHD. (CO. NO. 202001029875/1386195-V) having its principal place of business at 7, Jalan Penawar 1, 11600 Jelutong, Pulau Pinang (“NonFiction”) of one part and KOL as stated in the schedule hereinbelow of another part in accordance to the terms and conditions herein contained:-

KOL's full name	Liew Ting Hany (Rexter)
NRIC Number	040609 - 10 - 1749
Telephone Number	016218 2272
Correspondence Address	33, Jalan USJ 6/6A 47610 Subang Jaya, Selangor.
Email Address	rextvliw45@gmail.com

(“KOL” and “NonFiction” shall hereinafter referred to as individually, as “**the Party**” or collectively, “**the Parties**”)

## WHEREAS:-

(A) NonFiction engages in providing and advising persons who intend to advertise promote and market (“**Advertiser**”) their goods and/or services and has a mass clientele of Advertisers.

(B) KOL is a social media influencer that has mass numbers of followers in social media and widely known for his/her views and KOL intends to secure the work to advertise promote and market goods and/or services of the Advertisers.

(C) At the request of the KOL, NonFiction hereby agrees to be appointed as the manager for the KOL subject to the terms and conditions hereincontained.

NOW THE PARTIES HEREBY AGREE AS FOLLOWS: -

### 1. EXCLUSIVE APPOINTMENT OF NONFICTION

1.1 Subject to the terms and conditions hereinbelow and at the request of the KOL, NonFiction hereby agrees to be appointed as the manager for the KOL on **exclusive basis** in relation to the List of Social Media (as indicated hereinabove) ("**Social Media**").

1.2 The scope of work of NonFiction shall be:-

(a) seek, source and secure the contract with the Advertiser ("**Advertiser's Contract**") including negotiation, finalisation and making decision on all terms and conditions on the Advertiser's Contract Provided Always That NonFiction's decision shall be final and binding upon the KOL and NonFiction shall consider the KOL's skill, knowledge, reputation, image, capabilities and overall suitability;

(b) supervise, monitor, advise the activities of Social Media, including but not limited to reactions, comments and/or purchasing patterns of followers on the Social Media, and analyse, commercialise, exploit the data obtained from the reactions, comments and/or purchasing patterns of the followers and other indicators; and

(c) advise, direct and recommend creative style direction and narrative of the Advertiser and convey the same to the KOL from time to time subject to the instruction or request from the Advertiser.

1.3 Nothing contained in this Agreement shall be construed to form any partnership, joint venture, agency, employer-employee relationship. NonFiction and KOL shall act as independent contractor and shall not be liable for each other due to its acts and/or omissions save for those stated herein.

### 2. TERM OF AGREEMENT

2.1 This Agreement shall be legally enforceable against and binding against both Parties for duration of **One (1) year** from the date of this Agreement ("**Term**").

2.2 NonFiction shall be entitled to extend the Term of this Agreement for a further period of **One (1) year** at the same terms and conditions (save for this clause) or otherwise at the absolute discretion of NonFiction by giving a written notice to the KOL on or before the expiry of the Term.

### 3. FEES ARRANGEMENT

3.1 NonFiction shall be paid **Twenty Five Percent (25%)** of the KOL's gross earning/service fees paid by the Advertiser as management fee on each Advertiser's Contract ("**Management Fee**").

3.2 KOL shall be entitled to all gross earning/service fees paid by the Advertiser less the Management Fee ("**KOL Payment**"). KOL Payment will be paid to the KOL upon completion of the Advertiser's Contract Subject That the KOL shall always be in full adherence and compliance to this Agreement particularly Agreed Work in the Advertiser's Contract to the satisfaction of the NonFiction and Advertiser.

3.3 NonFiction reserves all rights to adjust the sum of Management Fee and delay and/or postpone the payment of Management Fee to the KOL if the KOL fails to comply his/her responsibilities, particularly on incorrect/delayed posting time, date or purchase price of the services and/or products of the Advertiser.

3.4 In the event KOL introduces or recommends Advertiser to NonFiction, KOL shall be entitled to receive commission at the rate of **Fifty Per Cent (50%)** of the net profit (of which is subject to service tax and deduction of NonFiction) Provided Always That NonFiction shall have received full payment from the Advertiser.

3.5 KOL Payment shall be subject to the deduction of service tax payable by NonFiction to the relevant authority or any statutory withholding taxes for oversea payment to KOL.

#### **4. KOL'S OBLIGATIONS AND RESPONSIBILITIES**

4.1 KOL's obligations and responsibilities shall include the following matters:-

- (a) KOL shall refer to NonFiction any potential offers, approaches and/or solicitations from any third parties for job, task, matter and/or assignment relating to any Advertiser's Contract;
- (b) KOL shall not consider, negotiate, accept and/or perform any job, task, matter and/or assignment having the same or substantially similar nature with the Services save except with NonFiction's prior written approval;
- (c) KOL shall not act, do or omit to do anything which may affect the performance of this Agreement or render this Agreement impracticable to be performed, including but not limited to issuance of any notice on social media in relation to the Project without our prior consent;
- (d) KOL shall provide his or her best skill and ability in a professional manner and up to industrial standard in performing the Services/ensure that the Services will be performed and completed in accordance to the advise, direction and recommendation of NonFiction to the satisfactory of NonFiction and the Advertiser;
- (e) KOL shall punctually attend to all appointments, job, task, matter and/or assignment assigned or designated to him or her and to keep NonFiction reasonably informed of his or her whereabouts and availability at all times during the Term;
- (f) KOL shall perform the Agreed Work in the Advertiser's Contract in such a manner so as not to breach any prevailing law and regulation and shall not cause NonFiction to breach any law and regulation;
- (g) KOL shall not directly or indirectly engage with or commence any communications, enter into agreements or arrangement with the Advertiser in the manner which may affect the performance of this Agreement or render this Agreement impracticable to be performed;
- (h) KOL shall not be engaged with any other marketing agency which are in direct competition for this Agreement or any project at the material time during the Term;
- (i) KOL shall at all times act for a proper purpose and in good faith in the best interest of the in a professional manner and the KOL shall observe the rules and/or directions set or imposed by NonFiction;

- (j) KOL agrees that he/she will not use, disclose, communicate, copy or permit the use or disclosure of all information to any third party in any manner whatsoever except to the existing employees of Company or as otherwise directed by Company in the course of Influencer's performance of services under this Agreement, and thereafter only with the written permission of Company;
- (k) KOL shall comply and obey with the advice, directions, recommendations, guidelines given by NonFiction;
- (l) KOL shall keep NonFiction informed or updated on his or her personal information should there any changes;
- (m) KOL shall not disclose or make to avail any personal matter and matters concerning personal relationship to any members of the public save except with the written approval from NonFiction;
- (n) KOL agrees that NonFiction may record and/or film or arrange for the recording and/or filming of, the Agreed Work in the Advertiser's Contract, and NonFiction may use any such sound recording or film of the same without the prior consent of the KOL;
- (o) KOL shall not remove any Agreed Work in the Advertiser's Contract within One (1) month after the posting of the same;
- (p) KOL shall be responsible to reply all the comments under any posting of Social Media for the Agreed Work in the Advertiser's Contract save for those sales related questions, of which shall be answerable by NonFiction or the Advertiser;
- (q) KOL shall secure all equipment, tools and/or facilities ("**Facilities**") required to perform the Agreed Work in the Advertiser's Contract this Agreement at the KOL's own expense. If the Facilities are provided by NonFiction, the KOL shall exercise reasonable care, skill and diligence in the usage of the same and NonFiction may recover from the KOL if the Facilities were lost damaged or misplaced during the possession of the KOL;
- (r) KOL shall secure and ensure any personnel, whether specifically named or not, secured by the KOL in the performance of this Agreement will abide by the terms and conditions of this Agreement;
- (s) KOL shall arrive sharply or prior to the time as instructed or directed by NonFiction at the place or venue designated by NonFiction;
- (t) KOL shall attend to the advice, direction and/or recommendation of NonFiction including to ensure KOL's presence at events, video and music production, live streaming activities, and others not specifically mentioned herein;
- (u) KOL shall post at the agreed time, date and other details required by the Advertiser accurately and correctly including the cost of the services and/or products of the Advertiser;
- (v) In the event the KOL is unable to provide any matters under the Agreed Work in the Advertiser's Contract after the same have been assigned to the KOL, the KOL shall inform NonFiction at least seven (7) days prior to the commencement of the said matters. The KOL shall provide a valid reason for the incapability to provide the Services and NonFiction shall have the right to investigate such reason;
- (w) KOL shall cause and procure amendment to the posting upon receipt of instruction from NonFiction and/or the Advertiser; and
- (x) whichever necessary, KOL shall cause and procure its own security personnel for the KOL during any performance of the Agreed Work in the Advertiser's Contract.

## 5. PARTIES' REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

5.1 Each Party hereto hereby represents warrants and undertakes to the other Party that:

- (a) it has full power authority and capacity to enter into this Agreement and be bound by all the terms and conditions herein contained and such execution and performance does not contravene any of its contractual, statutory or other obligations of any nature whatsoever in such manner as to cause it to be unable to fulfill its obligations hereunder;
- (b) this Agreement constitutes its legal and binding obligations and shall be enforceable against both parties in accordance with the terms hereunder;
- (c) save as otherwise provided herein, all actions, conditions and things required to be taken, fulfilled and done (including without limitation the obtaining of any necessary consents or license or the making of any filing or registration) in order to enable it lawfully to enter into, exercise its rights and perform and comply with its obligations under this Agreement and to ensure that those obligations are legally binding and enforceable, have been taken, fulfilled and done;
- (d) its entry into, exercise of its rights and/or performance of or compliance with its obligations under this Agreement do not and will not violate, or exceed any power or restriction granted or imposed by any law, regulation, authorization, directive or order (whether or not having the force of law) to which it is subject; (ii) its constitutive documents, where applicable; or any agreement or arrangement to which it is a party or which is binding on it or its assets;
- (e) save as otherwise disclosed, it is not engaged in and is not aware of any pending or threatened litigation or governmental investigation or proceedings which may have a material adverse effect on its ability to enter into this Agreement and to fulfill its obligations hereunder; and
- (f) save as otherwise provided herein, there is no other order, permission, consent and/or approval that is required to be obtained by it in connection with the execution and delivery of this Agreement.

## 6. BREACH & TERMINATION OF AGREEMENT

6.1 If the KOL commit a breach under this Agreement, NonFiction shall be entitled to give notice in writing to the KOL specifying the relevant default and require such defaulting Party to remedy the default **within Twenty Four (24) hours** from the date of the KOL receipt.

6.2 Each Party shall be entitled to exercise their respective rights under this Agreement and to require strict performance of the other of the terms and conditions contained herein.

6.3 Notwithstanding anything to the contrary in this Agreement, NonFiction shall be entitled to terminate this Agreement with immediate effect if :-

- (a) the KOL shall have a bankruptcy petition filed against him/her;
- (b) the KOL shall commit or allows to be committed any breach of this Agreement and if remediable shall fail to remedy such breach within Three (3) days after written notice has been given to him/her;
- (c) the KOL engages or involves in any scandal and/or activity(ies), in the reasonable opinion of NonFiction, that may harm the NonFiction's or the Advertiser's image or bring damage to its name or reputation or goodwill;

(d) the KOL is convicted of a criminal offence that subjected him/her for term of imprisonment, or any other offence which shall affect the KOL's reputation and integrity;

whereupon no KOL Payment shall be paid to the KOL and NonFiction shall not be liable to any obligations under this Agreement towards KOL whatsoever.

## **7. INDEMNITY**

7.1 Where any loss or damage is caused by the KOL due to his/her intentional or negligent act or omission or failed to act, the KOL shall be liable to compensate NonFiction and NonFiction shall be entitled to set off such an amount against the KOL Payment due and owing to the KOL. The KOL hereby undertakes to indemnify NonFiction in the event the Fees is insufficient to set off the said amount mentioned under this Clause.

7.2 For whatsoever reason, if the KOL is unable to provide the Services and fails to inform or notify NonFiction **seven (7) days** prior to the commencement of such tasks, assignments or projects being assigned thereto under the Agreed Work in the Advertiser's Contract, the KOL hereby agrees to pay to NonFiction an amount of **Two (2) times** of the fees or incomes of such job, matter, task and/or assignment as agreed liquidated damages regardless a written notice has been served to the KOL or not and simultaneously, NonFiction may at its sole discretion terminate this Agreement forthwith.

## **8. COPYRIGHT & ADVERTISING**

8.1 KOL agrees that NonFiction, may at its sole discretion, use radio, television, flyers, electronic communication (including, without limitation, via the internet), or such other means of promotion to promote products and/or services of the Advertiser.

8.2 All intellectual property rights and mark of, designed and produced in the or for the posting under this Agreement shall belong to NonFiction absolutely. KOL shall have no right to claim the ownership of such copyright or use or moneys arising from monetization or commercialization of such post or matter under the Agreed Work in the Advertiser's Contract whatsoever.

8.3 KOL shall hereby unconditionally, absolutely and irrevocably grant NonFiction the right to use his/her name and approved photographs, likenesses and biographies for the purposes of advertisement and promotion through NonFiction's digital and social media without the prior consent of the KOL and in WhatsApp, magazine, newspaper.

8.4 In the event that the KOL is not reasonably satisfied with any photo that NonFiction sought to use, the KOL may request NonFiction change or replace with another photo but shall have no rights whatsoever to stop or prohibit NonFiction for the purpose of this Clause .

## **9. GENERAL**

9.1 This Agreement shall be binding upon and ensure to the benefit of the respective successors in title and permitted assigns of each of the Parties.

9.2 Unless otherwise stated in this Agreement, neither Party may assign their rights or obligations hereunder in whole or in part without the prior written consent of the other Party.

9.3 The Parties submit to the exclusive jurisdiction of the courts of Malaysia and any proceedings may be brought before any court of competent jurisdiction in Malaysia.

9.4 This Agreement shall be governed by and construed in accordance with the laws of Malaysia.

9.5 No provision of this Agreement may be amended modified waived discharged or terminated otherwise than by the express written agreement of the Parties to it nor may any breach of any provision of this Agreement be waived or discharged except with the express written consent of the Party not in breach.

9.6 Any notice of demand or request to be given by any Party shall be sufficiently given sent by post, delivered by hand or transmitted by fax addressed to the other Party at the addresses or fax numbers hereinbefore stated or such other address or fax number as may from time to time be notified by the other Party for the purpose herein and shall be deemed to be received at the time of delivery (if so delivered by hand) or 48 hours after posting (if sent by registered post) or at the time when the fax is sent (if so transmitted by fax with report of successful transmission) provided that such notices are delivered or transmitted during normal working hours on a business day, otherwise notice shall be deemed to have been received on the next business day.

9.7 Time shall be of the essence of this Agreement including any instruction given to you and no failure to exercise nor delay in exercising on the part of the Parties of any right, power or privilege under this Agreement shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9.8 In the event that any of the provision contained in this Agreement shall for any reasons be held to be unenforceable, illegal or otherwise invalid in any respect under the law governing this Agreement or its performance, such unenforceability, illegality or invalidity shall not affect any other provisions of this Agreement and this Agreement shall then be construed as if such unenforceable, illegal or invalid provisions had never been contained herein.

~ The remaining part of this page is intentionally left blank ~

IN WITNESS WHEREOF the Parties hereto have hereunto caused this Agreement to be executed on this day and year first above written.

NONFICTION

SIGNED for and on behalf of )  
NONFICTION MARKETING SDN. BHD. )  
(CO. NO. 202001029875/1386195-V) )  
in the presence of:- )



.....  
Director  
Name: Soon Eng Hin  
NRIC No.: 790322-07-5419



.....  
Sales Manager  
Name: Luwis Tan Chun Wei  
NRIC No.: 000317-07-0745

KOL  
SIGNED by



.....  
Name: Liew Ting Hong (Retailer)  
NRIC No.: 040609-10-1749