

INDEPENDENT CONTRACTOR TERMS AND CONDITIONS

The services provided by Contractor are subject to these Independent Contractor Terms and Conditions (the “Terms”). To the extent these Terms are inconsistent with any SOW or other document, agreement, purchase order or understanding between the parties, these Terms shall govern.

1. Definitions.

1.1. For the purposes of these Terms, the following terms have the meaning ascribed to them below:

1.1.1. “Advertiser” refers to the Agency client or customer for whom Agency is acting as agent.

1.1.2. “Agency” refers to Moroch/NEXTMedia, Inc. and/or any of its affiliates, as shown in the SOW.

1.1.3. “Agreement” refers to the SOW, together with these Terms.

1.1.4. “Contractor” refers to the company, organization, or individual providing services to Agency under the SOW.

1.1.5. “Service(s)” refers to each of the services, individually and collectively, as set forth in the SOW.

1.1.6. “SOW” refers to the Statement of Work governing the provision of Contractor’s services to Agency on behalf of any Advertiser named therein.

1.2. Capitalized terms not defined in Section 1.1 have the meanings set forth in the section in which they are defined.

2. Services.

2.1. During the term of the Agreement, Contractor agrees to perform the services (the “**Services**”) described in the SOW agreed to and signed by both parties. If required by the Agency, Services may be provided by Contractor by means of subsequent SOWs. Each SOW will be considered a separate agreement which incorporates the terms and conditions of these Terms.

2.2. Contractor will determine the method, details, and means of performing the Services and will use Contractor’s best efforts to perform the Services in a manner satisfactory to the Agency.

3. Compensation.

3.1. As compensation for the performance of the Services, Agency agrees to pay Contractor the amount set forth in each applicable SOW. Contractor understands and agrees that Contractor shall not receive any royalties or residuals of any nature and full compensation shall be as stated in each SOW. Contractor is solely responsible for all personal costs incurred in connection with the accomplishment of the Services.

3.2. As applicable, correct invoices submitted by Contractor to the Agency are payable within fourteen (14) days after receipt by the Agency’s accounting department. If Agency wishes to dispute an invoice, it shall furnish Contractor with a written explanation of its dispute, together with appropriate supporting documentation, by or before the end of the fourteen (14) day payment period. Contractor and Agency shall work together in good faith to resolve any such disputed amount and upon reconciliation, Agency will pay to Contractor the agreed upon amount.

4. Independent Contractor.

4.1. Contractor will perform the Services as an independent contractor. Contractor will not be deemed to be an agent or employee of the Agency or any Advertiser, nor will Contractor be entitled to any employee benefits.

4.2. Contractor will pay, when and as due, any and all taxes incurred as a result of Contractor’s compensation.

4.3. Contractor solely will be responsible for all of Contractor’s own insurance and will at all times maintain such types and amounts of insurance coverage (including automobile/liability insurance, workers’ compensation or unemployment insurance) as may be required by the Agency as well as the law of the state in which Contractor works. Upon request made by the Agency, Agency will be named as an additional insured on the policies of insurance required under any SOW. Contractor shall furnish proof of any form of insurance to the Agency upon request.

4.4. Contractor indemnifies the Agency for any claims, losses, costs, fees, liabilities, damages, or injuries incurred by the Agency arising out of Contractor’s breach of this Section 4.

5. Non-Exclusive Arrangement. Contractor may represent, perform services for, or be employed by any additional persons or companies, provided such other services do not interfere with Contractor's full performance of the Services Contractor has agreed to perform under the SOW. During the term and after the termination of these Terms, Contractor shall not use any of the Confidential Information (hereafter defined) to provide services to any other person or entity.
6. Term. These Terms continue in force until the expirations, cancellation, or termination of the Service Term. The Service Term commences on the start date indicated on the SOW (or in no start date is indicated, upon Agency's receipt of the signed SOW) and remains in effect until the Services have been rendered and payment of all amounts due in respect of the Services is paid in full ("Service Term"). Agency may terminate any SOW with or without cause, effective immediately upon notice to Contractor. In the event of termination, Agency will pay Contractor for Services rendered to the date of termination as provided in the applicable SOW.
7. Contractor's Representations and Indemnities. Contractor makes the following material representations to the Agency in order to induce the Agency to enter into any SOW, and acknowledges that the Agency has reasonably relied upon each of these representations and but for each and every one of these representations, the Agency would not enter into the SOW:
 - 7.1. Contractor represents that Contractor has the qualifications, licenses (if any are required by law or necessary to perform the Services) and ability to perform the Services in a professional manner, without the advice, control, or supervision of the Agency. Contractor shall be solely responsible for the professional performance of the Services.
 - 7.2. Contractor has not entered into any agreement and/or is not under any existing obligation that prohibits, inhibit, or prevents Contractor from performing all or any part of the Services.
 - 7.3. Contractor has not taken any confidential or proprietary information or trade secrets of any other person or entity by whom Contractor has previously been employed or retained as a contractor, or is retained by or employed, and Contractor shall not use any such information in the performance of the Services.
 - 7.4. Contractor has not granted any rights or licenses to any intellectual property or technology that would conflict with the Agency's rights, Advertiser's rights, or Contractor's obligations under the Agreement.
 - 7.5. Contractor shall not infringe upon any copyright, trademark, patent, trade secret, or other property right of any third party in the performance of the Services and will not disclose or otherwise make available to the Agency in any manner any confidential information received by Contractor from third parties if doing so would violate Contractor's obligations to any third party.
 - 7.6. Contractor acknowledges that Contractor has had the opportunity to consult legal counsel in regard to these Terms, Contractor has read and understands these Terms, Contractor is fully aware of its legal effect, and Contractor has entered into it freely and voluntarily and based on Contractor's own judgment and not on any representation or promises other than those contained in these Terms or any SOW.
 - 7.7. Contractor represents and acknowledges that in executing the Agreement, Contractor does not rely and has not relied upon any representation or statement made by the Agency or by Agency's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of these Terms or otherwise, other than those matters expressly stated herein.
 - 7.8. Contractor shall and hereby agrees to indemnify, defend, and hold harmless the Agency (including its clients, its parent company, and any of its affiliates, subsidiaries, officers, employees, directors, managers, shareholders, and members), and the Agency's officers, employees, directors, managers, shareholders, and members, past, present, and future ("**Indemnified Parties**"), from and against any and all claims, demands (whether rightful or baseless), losses, costs, expenses, obligations, liabilities, damages, recoveries, awards, and deficiencies, including, without limitation, interest, penalties, and reasonable attorneys' fees and costs, and expert witness fees, that the Indemnified Parties incur or may incur or suffer and that arise out of or are related to Contractor's actions, including negligence, in the performance of any of Contractor's obligations in the Agreement, or Contractor's breach of any of Contractor's obligations under the Agreement. Contractor's duty to defend the Indemnified Parties shall arise immediately upon demand for a defense by any of the Indemnified Parties, and shall not be dependent upon a finding of any fault by Contractor. Each of the Indemnified Parties shall have the right to select counsel of their choice to defend each of them.
8. Agency Ownership of New Developments. Contractor agrees that all writings and other work product produced by Contractor

pursuant to the Agreement, including all reports, models, inventions, and all other information and items made during the course of the Agreement and arising from the Services (“**New Developments**”) are and shall be considered Works Made for Hire (as such are defined under the U.S. Copyright Laws) and the Agency (or Advertiser, as applicable) shall be the author and sole owner and proprietor of copyright and any other right, title, or interest in the New Developments. In the event that it should be determined that any of such New Developments do not qualify as a Work Made for Hire, Contractor shall and hereby does assign and transfer to the Agency Contractor’s entire right, title, and interest in and to the copyright and all other rights, however acquired, that Contractor may have in the New Developments. Upon request, Contractor will take such steps as are necessary to enable Contractor to record such assignment. Contractor hereby waives all moral rights in the New Developments. Contractor either has obtained or agrees to obtain written assurances from its employees and contract personnel of their agreement to these terms with regard to Confidential Information and New Developments. Contractor shall provide the Agency copies of all such agreements and assurances. Contractor warrants that Contractor has the right to assign New Developments to the Agency free of any proprietary rights of any other party or any other encumbrance whatever.

9. Confidentiality.

- 9.1. The provision of Services creates a confidential relationship between the Parties. Information concerning either party’s (including any Advertiser’s) business affairs, vendors, finances, properties, methods of operation, computer programs, employees, documentation, and other such information whether written, oral, or otherwise, is confidential in nature (“**Confidential Information**”). All Confidential Information disclosed by one party to the other shall be treated as confidential and shall be maintained in confidence and shall not be disclosed to anyone in any form without the prior written consent of the disclosing party. The Confidential Information shall not be used by either party other than in connection with the Services.
 - 9.2. The following shall not be deemed to constitute Confidential Information and shall not be subject to the restrictions set forth herein: i) information that has entered or subsequently enters the public domain without either party’s breach of any obligation under these Terms; ii) information that was known to the receiving party prior to the disclosing party’s disclosure of such information; iii) information which is obtained from a third party without violation of an obligation of nondisclosure; and/or iv) information that is independently developed by a party without reference to the other party’s Confidential Information.
 - 9.3. If either Party or its representatives are requested or required (by oral questions, interrogatories, requests for information, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information, it is agreed that such party will provide the other party with prompt written notice of such request(s) so that the other party may seek an appropriate protective order and/or waive compliance with the provisions of the Agreement. If, failing the entry of a protective order or the receipt of a waiver hereunder, such party are, in the opinion of outside counsel, compelled to disclose the other party’s Confidential Information under pain of liability for contempt or other censure or penalty, such party may disclose only that portion of such information as is legally required without liability hereunder, provided, that such party agrees to exercise its commercially reasonable best efforts to obtain assurance that confidential treatment will be accorded such information. The provisions of this Section 9 shall survive the expiration of the Agreement.
10. Governing Law/Venue. These Terms shall be governed by, and construed, interpreted and enforced in accordance with, the laws of the State of Texas without giving effect to any principles of conflicts of law. The Parties agree that any action related to these Terms shall be brought in a court of competent jurisdiction located in Dallas, Texas.
11. Entire Agreement. These Terms, including any applicable SOW, constitutes the entire understanding and agreement between Contractor and Agency concerning the matters covered in it, with the exception that these Terms shall be in addition to any confidentiality agreements entered into between Contractor and Agency relating to Contractor’s work on specific Advertiser accounts and/or Contractor’s access to Confidential Information of specific Advertiser. Where any provision of these Terms conflicts with the provisions of any other such Advertiser-specific agreements, the agreements shall be read together to offer the most protection to the Agency’s and the Advertiser’s Confidential Information. Any modification or amendment to these Terms must be in writing and must be signed and dated by all of the parties, and must explicitly state that it is intended to be an amendment to or modification of these Terms.
12. Waiver of Breach. If any party to these Terms waives a breach of one of the provisions by any other party, that waiver shall neither operate nor be construed as a waiver of any subsequent similar breach of any provision hereof.

13. Agreement Binding on Representatives and Successors. These Terms shall be binding upon each party to it and upon each of such party's heirs, administrators, representatives, executors, successors, and permitted assigns. Contractor may not assign the Agreement without the consent of Agency.
14. Severability To the extent any provision of these Terms or portion thereof shall be invalid or unenforceable, it shall be considered deleted from these Terms and the remainder of such provision and of these Terms shall be unaffected and shall continue in full force and effect.
15. Notices. Any notice or other communication required or permitted to be given hereunder shall be given in writing and delivered in person, mailed or delivered by recognized courier service, properly addressed with delivery charges prepaid, to the intended recipient at its address specified below and shall be deemed effective upon receipt. Either party may from time to time change its address by giving the other party notice of the change in accordance with this Section.

If to Agency:
NEXTMedia
3625 Hall Street, #1100
Dallas, TX 75219
Attn: Chief Financial Officer
With a copy via Email to: legal@moroch.com

If to Client:
At the address shown on any Vendor Setup Form provided by Contractor.

16. Resolution of Disputes. If a dispute arises from or relates to these Terms, and if the dispute cannot be settled through direct discussions, the Parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. Any unresolved controversy or claim arising from or relating to these Terms shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If all parties to the dispute agree, a mediator involved in the parties' mediation may be asked to serve as the arbitrator. This provision shall not restrict Agency from seeking injunctive relief in a court of competent jurisdiction to enforce the provisions of Sections 7 or 8 above.
17. Further Assurances. Each of the Parties shall execute any other documents and take any other actions as may be reasonably necessary to carry out the intent and purpose of these Terms.
18. Headings. The headings contained herein are for convenience only and shall not control or affect the meaning or construction of any provision of these Terms.
19. Survival. Sections 6 - 19 shall survive the expiration or termination of these Terms.

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[END OF TERMS AND CONDITIONS]