

**CITY OF PARKER**  
**RESOLUTION NO. 2020-642**  
*(Designating Official Newspaper)*

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, DESIGNATING AN OFFICIAL NEWSPAPER FOR THE CITY OF PARKER FOR THE FISCAL YEAR 2020-2021, AND RATIFYING THE DESIGNATION OF DALLAS MORNING NEWS FOR THE PRIOR YEAR.**

**WHEREAS**, the City Council finds that *Dallas Morning News* is a paper of general circulation within the City of Parker; and

**WHEREAS**, the City Council finds that *Dallas Morning News*:

1. devotes not less than 25% of its total column lineage to general interest items;
2. is published at least once each week;
3. is entered as 2<sup>nd</sup> class postal matter in the county where published; and
4. has been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice; and

**WHEREAS**, the City Council finds that *Dallas Morning News* is a publication that meets all of the criteria legally required of an officially designated newspaper for the City of Parker; and

**NOW THEREFORE, be it resolved by the City Council of the City of Parker, Collin County, Texas, as follows:**

1. *Dallas Morning News* is designated as the official newspaper for the City of Parker for the Fiscal Year 2020-2021, commencing October 1, 2020. The use of the newspaper prior to the date of this resolution is ratified by Council.

2. The Mayor is authorized and directed to execute a contract with *Dallas Morning News* establishing the applicable rates for publication of City notices.

3. Until September 30, 2021, and thereafter until changed by resolution of City Council, the City of Parker shall continue to publish in *Dallas Morning News* each resolution, notice or other matter required to be published by law.


4. Should any word, phrase, paragraph, section or portion of this resolution be held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining portions of the resolution shall not be affected thereby, and each such illegal, invalid or unenforceable word, phrase, paragraph, section or portion shall not affect the resolution as a whole.

5. This Resolution is effective immediately upon passage.

**DULY PASSED AND APPROVED** by the City Council of the City of Parker, Collin County, Texas, on this the 15th day of September, 2020.



CITY OF PARKER:

  
Ed Standridge, Mayor Pro Tem

ATTEST:

  
Patti Scott Grey, City Secretary

APPROVED AS TO FORM:

  
Brandon S. Shelby, City Attorney

Category: (Legal)

Level: \$5,000

Rate card Year: 2020

Contract Date 10/01/2020

Frequency X

DVC

## ADVERTISING CONTRACT

**Advertiser Name: City of Parker - Acct #:100069579**

Hereinafter referred to as Advertiser hereby contracts with The Dallas Morning News, Inc. d/b/a Belo + Company (hereinafter "Publisher") for consumption of not less than \$5,000 of advertising through the use of Classified Legal to be published within Publisher's line of products. The term of this agreement is for a period beginning 10/01/2020 and 09/30/2021.

Dallasnews.com expenditures revenues count toward the fulfillment of Publisher dollar volume contracts unless otherwise stipulated.

Such advertising to pertain solely to the business of the Advertiser as now conducted, for which the Advertiser agrees to pay at the office of Publisher at Dallas, Texas, in accord with the rates as designated by ratecard and/or Appendix A.

If, for any reason, including suspension of business of Advertiser, less insertions than that contracted for herein is used by Advertiser, and by reason of such fact Advertiser fails to earn rates specified herein, Advertiser agrees that all space used under this contract shall be computed according to the published schedule of rates in effect at date of this contract and hereby agrees to pay Publisher, immediately, whatever amount such computation may show to be due Publisher. This Agreement applies to any discontinuance of the advertising, whether at the instance of the Advertiser or of the Publisher. Such amount will be due and payable immediately upon receipt of the invoice.

The entire contract is expressed on the face hereof and in the additional Further Conditions & appendices on the back hereof and no verbal agreements, provisions or conditions exist with respect thereto.

**Signed:**

The Dallas Morning News, Inc.  
d/b/a Belo + Company  
Dallas, TX 75202

City of Parker  
5700 E. Parker Road  
Parker, TX 75002

Print Name: Max Tezkol

Print Name: Ed Standridge

Signature: \_\_\_\_\_

Signature: Ed Standridge

Title: Legal Account Evecutive

Title: Mayor Pro Tem

Date: \_\_\_\_\_

Date: September 15, 2020

## **Appendix A**

**Annual Spend \$5,000**

**Rate: \$4.15 per newspaper line per day**

**\$35.00 Liner / \$45.00 Display for dallasnews.com**

**\$1 per line bold type**

**\$15 border for in column ads**

*Al Dia \$.90 per line*

**FURTHER CONDITIONS OF THIS CONTRACT**

1. Publisher reserves the right to edit or reject any advertising tendered under this contract.
2. Payment by Advertiser, denominated in U.S. Dollars, must be made in Dallas, Texas, and shall be made not later than the 20<sup>th</sup> of the month for space billed in the preceding calendar month. Publisher and Advertiser agree that this contract is performable in Dallas County, Texas and shall be governed and construed in accordance with Texas law.
3. Publisher's rates in this contract are based on an assumed classification for the advertising being placed. If at any time Publisher determines that the advertising being placed does not qualify for the rates set forth, then Publisher shall notify Advertiser that any further inserts run pursuant to this contract shall be run at a revised rate. Advertiser agrees to pay Publisher the revised rate for any insertions run after Advertiser has received notice that the rate has been revised and the amount of the revised rate. If Advertiser chooses not to pay the revised rate, then Advertiser must advise Publisher before any additional insertions are run. If Advertiser gives notice to Publisher that Advertiser will not pay the revised rate, then this contract shall be terminated, and the parties shall have no further liability to each other except for amounts owing for advertising run prior to Publisher's receipt of such notice from Advertiser. Upon contract termination, all advertising will be billed at the appropriate rate card rates.
4. Advertisements are to be inserted in accordance with the Publisher's rules of composition, position, and shape.
5. If Advertiser requests a specific position for the advertisement, then Advertiser agrees to pay the rate for such specific position provided the position is available. Publisher is not required to accommodate a request for a specified position. If a specified position requested by Advertiser is not available, then Publisher may position the copy in any position according to the Publisher's rules of composition, position, and shape, and Advertiser agrees to pay the applicable rate of any copy printed in other than the specified position unless Publisher is notified in writing by Advertiser that the copy is to be printed only in the specified position.,
6. If Advertiser fails to make payment of undisputed sums as agreed, then Publisher and Advertiser agree that Publisher may at any time terminate this contract. Termination of the contract shall in no way affect the obligation of Advertiser to pay undisputed amounts due at the time of termination.
7. In case of omission or error by Publisher in an advertisement, Publisher shall not be liable for damages. Advertiser's sole remedy shall be that Advertiser shall not be liable for the entire cost of the advertisement. Publisher will determine, in its sole discretion, the percentage of effective cost due to error and reduce the entire cost of the advertisement by this percentage amount or offer replacement ad equal to the percentage amount.
8. Advertising running consecutively will be carried until Advertiser notifies Publisher in writing that copy will be changed or the advertisement will be suspended.
9. In the event of a default or other breach of this contract by either party, the prevailing party shall be entitled to recover attorney's fees and costs.
10. While this contract is in effect, should any conditions arise that affect the cost of newspaper operation, such as imposition by government of a sales tax or increased material or production costs, Publisher reserves the right to increase the advertising rates named on the reverse side of this page or incorporated into this page by reference. In such event, however, Publisher must give Advertiser at least thirty (30) days notice of the increase, and if such increase is not satisfactory to Advertiser, then Advertiser may terminate this contract.
11. Advertiser represents and warrants that the material provided by Advertiser for publication in accordance with this contract is true, accurate, and correct and does not infringe or otherwise violate the copyright, trademark, service mark, or other intellectual property rights, or rights of privacy or publicity, of any third party. Advertiser agrees to indemnify, defend, and hold harmless Publisher, its parent company and affiliates and each of their directors, officers, agents, and employees from and against all claims, exposure, liability, loss, or damage, including reasonable attorneys' fees, alleged to be caused by or arising wholly or in part from the publication of Advertiser's material. This indemnification shall not apply to willful misconduct by any employee of Publisher.
12. This contract is made and entered into under Publisher's current published schedule of rates in effect on the date of this contract, and by reference such schedule is expressly made a part of this contract. Advertiser assumes responsibility for being knowledgeable about such current published schedule of rates, and Advertiser shall be deemed to know such current published schedule of rates.
13. Advertiser agrees to submit to Publisher, in writing, all claims of errors in the statement of account submitted by Publisher within thirty (30) days of the billing date. All such claims not submitted within thirty (30) days shall be considered waived.
14. If Publisher's "Application for Credit" form has been completed and submitted by Advertiser in connection with this contract, then Advertiser warrants that the information contained in that application is true, accurate, and correct and agrees that the making of any false statements in that application constitutes a material breach of this contract.
15. Any "Application for Credit" form executed by Advertiser is part of this contract and incorporated into this contract fully by reference.
16. Advertiser, and the person, if any, signing on Advertiser's behalf, warrants that he or she has the authority to make and sign this contract.
17. Advertiser agrees to immediately notify Publisher in writing of any change in ownership of Advertiser's business operation. The Advertiser further agrees to assume liability for and make payment of all advertising published pursuant hereto in the event Advertiser's business is sold, merged, or otherwise transferred, until such time as a contract is entered into between Publisher and the new owner.

## Standard Terms and Conditions

1. **General.** Advertiser desires to procure from Publisher certain online Services for use in connection with the operation of Advertiser's business. The Services may include, without limitation, the creation and maintenance of a business profile landing page in the Publisher online directory, search engine marketing, search engine optimization, social media management and integration, SMS and email marketing, and/or website development and hosting. Any selected Services must be specified in the Order. Advertiser may order additional Services from time to time by executing additional Orders. Advertiser acknowledges and agrees that the Services will be provided to Advertiser by Publisher's third-party service provider ("**Service Provider**") and/or such Service Provider's third-party vendors (each a "**Vendor**"). Publisher's provision, and Advertiser's use, of all such Services are subject to the terms of this Agreement, including any Service-specific terms set forth in Exhibit A.
2. **Launch of Services.** Upon execution of an Order, Publisher will submit the Order to its Service Provider for processing. Subject to Publisher receiving, in a timely fashion, any materials from Advertiser that are required to launch each applicable Service, Publisher will provide the Advertiser with a detailed project plan that will include major milestones and corresponding delivery dates. Publisher will use commercially reasonable efforts to launch each such Service on behalf of Advertiser on a live basis based on agreed upon timeline. Any changes in scope/requirements will be reviewed for materiality and subsequently their impact will be factored into mutually agreed upon new milestones and delivery dates.
3. **Proofs; Responsibility for Ads.** Advertiser shall not be entitled to receive a proof of any display advertising (each an "**Ad**") created in connection with any Services ordered under this Agreement. Publisher makes no representation or warranty that any Ad will not be similar to, or resemble, any other Ad that is produced by Publisher or its Service Provider. Notwithstanding the foregoing, to the extent Advertiser has purchased website development services pursuant to an Order, Advertiser will have the opportunity to review and approve such website prior to launch.
4. **Placement.** Positioning of Ads is at Publisher's discretion. Publisher reserves the right to edit, revise, reject or cancel any Ad(s), space reservation or position commitment at any time. Publisher will make efforts to afford Advertiser the Ad position(s) desired; however, under no circumstances is position guaranteed and Ads must be paid for regardless of position.
5. **No Guarantees.** Advertiser acknowledges that Publisher has not made and does not make any guarantees with respect to usage statistics or levels of impression that will be delivered with respect to Ads placed on one or more websites. If Publisher provides Advertiser with any estimated usage and/or impression statistics, it does so only as a courtesy to Advertiser and will not be held liable for any claims relating to said statistics. Publisher may reject any link embedded in any Ad. If, for any reason, Publisher, in its sole discretion, is unable to publish any Ad(s) in accordance with the terms of this Agreement or the applicable Order, Publisher will either (1) refund to Advertiser the amounts paid for such Ad(s) not published; (2) publish the Ad(s) at a later date, as reasonably determined by Publisher; or (3) publish the Ads in a different position, as determined by Publisher in its sole discretion.
6. **License to Advertiser Materials.** Advertiser grants to Publisher a worldwide, non-exclusive, royalty-free license (with the right to sublicense to its Service Provider and/or such Service Provider's Vendors) to use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute any all drawings, pictures, slogans, text, audio, video, or other content furnished by or on behalf of Advertiser under the applicable Order (collectively, "**Advertiser Materials**") in the media and via the distribution methods expressly contemplated in the applicable Order. Publisher may modify or adapt the Advertiser Materials to the extent necessary to transmit, display or distribute it over computer networks and in various media and/or make changes to Advertiser Materials to the extent necessary to provide the Services and to conform and adapt the Advertiser Materials to any requirements or limitations of any networks, devices, services or media.
7. **Delivery of Advertiser Materials.** Advertiser will, at its expense, provide all Advertiser Materials necessary for Publisher and/or its Service Provider to provide the Services. Such Advertiser Materials will be provided in accordance with Publisher's policies in effect from time to time, including, without limitation, policies regarding the manner of transmission to Publisher and the delivery time prior to publication of the Advertiser Materials. Advertiser acknowledges that Advertiser's delay in delivering materials to Publisher by any applicable deadline may delay the launch date for the Services for which such materials are being provided. All expenses connected with the delivery to Publisher of advertising material or other web page content of Advertiser and any cost for return of such materials from Publisher will be paid by Advertiser. Publisher may dispose of any such materials delivered to it unless Advertiser has made acceptable prepaid return arrangements. Publisher will not be responsible for any material that is not properly displayed or that cannot be accessed or viewed because the material was not received by Publisher in the proper form, in a timely manner, or in an acceptable technical quality for display within the applicable Publisher locations. Publisher will not be liable for typographical errors, incorrect insertions or omissions in any Advertiser Materials displayed in connection with the Services.
8. **Payment Terms. The fees for the Services are set forth in the Order. Fees must be paid on a monthly basis in advance. Fees will be charged to the credit card identified in the Order unless Advertiser has made other arrangements with Publisher (provided that Publisher will be under no obligation to accept any form of payment other than credit card payments). Advertiser is responsible for ensuring that its credit card information is up to date at all times. By executing this Agreement, Advertiser hereby authorizes Publisher to charge Advertiser's credit card for all applicable Services within two business days after Publisher's initial receipt of the Order, and on a monthly basis on the same day of each subsequent month of the Term thereafter. Claims for errors in billing must be made by Advertiser within thirty (30) days after the due date for each applicable payment or such claims will be forfeited. Unpaid amounts will accrue interest at the rate one and one half percent (1.5%) per month, or the highest amount permitted by law, whichever is less, until such amounts are paid. In addition, Advertiser shall reimburse Publisher on demand for all reasonable costs and expenses incurred by Publisher in collecting any unpaid amounts (including, but not limited to, all fees and disbursements of counsel) and/or any collection agency of Publisher.**
9. **Taxes.** Advertiser shall be responsible for all taxes, duties, fees and other governmental charges of any kind arising out or relating to the Services.
10. **Termination.** Publisher may, in its sole discretion, terminate this Agreement or suspend the Services in the event Advertiser fails to pay any amount owed hereunder when due and fails to cure such non-payment within five (5) days following the due date. Without limiting the foregoing, Publisher may terminate this Agreement at any time, with or without cause, upon ten (10) days prior written notice to Advertiser. This Agreement will automatically terminate, without notice (i) upon the institution by or against Advertiser of insolvency, receivership, or bankruptcy proceedings or any other proceedings for the settlement of Advertiser's debts; (ii) upon Advertiser making an assignment for the benefit of creditors; or (iii) upon Advertiser's dissolution. Advertiser may terminate this Agreement in the event of a material breach by Publisher that remains uncured for a period of thirty (30) days following Publisher's receipt of written notice of such breach from Advertiser.
11. **Trademark License.** Advertiser hereby grants Publisher and its Service Provider a non-exclusive, royalty-free, worldwide right and license to use the Advertiser Trademarks in connection with the Services. For purposes of this Agreement, "**Advertiser Trademarks**" mean those trademarks, trade names, service marks, slogans, designs, advertising, labels, logos, and other trade-identifying symbols as are or have been developed and used by

Advertiser or any of its subsidiaries or affiliate companies anywhere in the world. Nothing in this Agreement gives Advertiser any right to use the trademarks, trade names, service marks, slogans, designs, distinctive advertising, labels, logos, and other trade-identifying symbols as are or have been developed and used by Publisher or any of its subsidiaries or affiliate companies anywhere in the world, including, without limitation, in any advertisements, sales promotion, public announcements or press releases, without Publisher's prior written approval in each instance.

**12. Reservation of Rights.** Publisher, in its sole discretion, may, at any time and for any reason, without notice, modify or remove or refuse to publish any Advertiser Materials from or on any platform over which the Services are distributed. Without limiting the foregoing, Publisher reserves the right to access, read, preserve, and disclose any Advertiser Materials or other information as Publisher reasonably believes is necessary to (i) satisfy any applicable law, regulation, legal process or governmental request, (ii) enforce this Agreement, including investigation of potential violations hereof, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect the rights, property or safety of Publisher, its users and the public.

**13. End User Information.** Any data collected from or about end users of the Services or related to the Services shall be the property of Publisher. Advertiser shall have no rights in such information by virtue of this Agreement.

**14. Advertiser Representations and Warranties.** Advertiser represents and warrants that (i) the Advertiser Materials, Advertiser Trademarks, all website links that Advertiser requests that Publisher and its Service Provider include on a website or other Services developed under this Agreement, and all information (including, but not limited to, name, address and telephone number) furnished by Advertiser in connection with an Order: (a) are original, accurate, and complete, and shall comply with all applicable laws, rules, and regulations; (b) are not libelous or defamatory and do not violate or infringe the personal or proprietary rights of any person or other entity (including without limitation any patent, copyright, trademark, trade secret or other intellectual privacy or publicity); and (c) do not contain viruses or any other contaminants, or disabling devices including, but not limited to, codes, commands or instructions that may be used to access, alter, delete, damage or disable the network or software of Publisher, its Service Provider or any Vendors, or any of their respective affiliates or Advertisers; (ii) it will comply with all federal, state and local laws and regulations applicable to the performance of its obligations hereunder and will obtain all applicable permits and licenses required of it in connection with its obligations hereunder; and (iii) it will avoid deceptive, misleading or unethical practices that could adversely affect the performance of Publisher's obligations under this Agreement or, during the Term, damage the reputation of Publisher.

**15. Indemnification.** Advertiser agrees to defend, indemnify and hold harmless Publisher, its parent and affiliates, Service Provider, and each of their respective directors, officers, employees, contractors, agents and assigns, from and against any claim, loss, demand, cause of action, debt or liability, including reasonable attorneys' fees resulting from a third-party claim arising out of: (i) any Advertiser Materials provided by Advertiser for use by Publisher and/or its Service Provider under this Agreement, including, without limitation, any claim that any such Advertiser Materials are libelous or defamatory or violate or infringe the rights of any third party, including, without limitation, any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right, or any rights of privacy or publicity; (ii) the breach or alleged breach of any representation or warranty made by Advertiser in this Agreement, or (iii) any claim relating to Advertiser's products or services.

**16. Disclaimers.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND THE SERVICES ARE PROVIDED "AS IS" AND "WITH ALL FAULTS." PUBLISHER, ITS SERVICE PROVIDER AND ANY VENDORS SHALL NOT HAVE ANY LIABILITY OR RESPONSIBILITY TO ADVERTISER OR ANY OTHER PERSON WITH RESPECT TO ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH ANY ADVERTISER MATERIALS OR OTHER MATERIAL DISPLAYED ON ADVERTISER'S WEBSITE(S) OR THE FAILURE TO DISPLAY ANY SUCH MATERIALS ON PUBLISHER'S WEBSITE(S). PUBLISHER DOES NOT REPRESENT OR WARRANT THAT ANY SERVICES, ADS OR OTHER MATERIAL WILL BE DISPLAYED ON ANY PUBLISHER WEBSITE WITHOUT INTERRUPTION OR ERROR.

**17. Limitation of Liability.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL PUBLISHER, ITS SERVICE PROVIDER, ANY VENDOR, OR ANY OF THEIR RESPECTIVE AFFILIATES BE LIABLE TO ADVERTISER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST DATA OR LOST PROFITS. IN NO EVENT SHALL PUBLISHER'S, SERVICE PROVIDER'S OR ANY VENDOR'S LIABILITY TO ADVERTISER OR ANY THIRD PARTY UNDER THIS AGREEMENT, WHETHER IN TORT, CONTRACT, OR UNDER ANY OTHER LEGAL THEORY EXCEED THE AMOUNT ACTUALLY PAID BY ADVERTISER TO PUBLISHER UNDER THIS AGREEMENT IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM, EVEN IF ANY REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

**18. Force Majeure.** Any delay in or failure of performance by Publisher will not be considered a breach of this Agreement and will be excused to the extent caused by any occurrence beyond the reasonable control of Publisher, including, but not limited to, public emergency or necessity, restrictions imposed by law, acts of God, war, riot, strikes, power outages, or failures of the Internet.

**19. Modifications to this Agreement.** Publisher reserves the right to amend or revise the terms of any Order and/or this Agreement (including Exhibit A) at any time upon thirty (30) days written notice to Advertiser. If such amendments or revisions are to material terms of this Agreement and are not acceptable to Advertiser, Advertiser may cancel this Agreement without penalty or liability by providing written notice to Publisher within such thirty (30) day period.

**20. Miscellaneous.** Advertiser acknowledges and agrees that the terms set forth in Sections 15, 16, 17, and 18 and the terms in Exhibit A, are for the benefit of Publisher, its Service Provider and Service Provider's Vendors, and that Service Provider and such Vendors are intended third-party beneficiaries under this Agreement and may enforce those provisions directly against Advertiser or through Publisher. The parties are independent contractors. Nothing in this Agreement shall be construed to create a joint venture, partnership, or an agency relationship between the parties. Advertiser may not assign or transfer this Agreement without the prior written consent of Publisher. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws rules. This Agreement constitutes the complete and exclusive agreement between the parties relating to the subject matter hereof. It supersedes all prior proposals, understandings and all other agreements, oral and written, between the parties relating to this subject matter. The waiver or failure of either party to exercise any right provided for herein will not be deemed a waiver of any further right hereunder. If any provision of this Agreement is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, such provision will be deemed restated, in accordance with applicable law, to reflect as nearly as possible the original intentions of the parties, and the remainder of the Agreement will remain in full force and effect. Sections 5, 8, 9, 12, 13, 14, 15, 16, 17, 19, and 20 will survive any termination, expiration or cancellation of this Agreement.

**EXHIBIT A****Service-Specific Terms**

If Advertiser purchases any of the Services described below from Publisher, the following additional terms and conditions will apply, as and to the extent applicable:

1. **Search Engine Optimization ("SEO").** Publisher and/or its Service Provider will perform with the intent of optimizing certain search engine results for Advertiser's advertisements. SEO does not include paid search engine placements offered by certain search engine companies. Advertiser acknowledges that SEO aims to optimize the search engine results for the SEO URL and local search URL's identified for optimization. SEO is not intended to optimize any other domain name or website. Advertiser acknowledges that Publisher will use reasonable efforts to optimize the ranking of Advertiser's advertisements through the provision of SEO, but that no guarantee can be made that the Advertiser's search ranking position will be maintained or optimized. In addition, Advertiser acknowledges that there are risks associated with search engine optimization methods, which could damage Advertiser's search engine ranking position across search engine companies and agrees that Publisher will have no liability for any other unfavorable ranking results whether as a result of Publisher provided SEO or otherwise. Search engine companies change their ranking algorithms periodically, and as such, search ranking positions will fluctuate and cannot be guaranteed by Publisher. Any other changes to search engine sites that cause unfavorable ranking results are out of Publisher's control and Publisher cannot be held responsible for such actions or occurrences. The search ranking position for any Advertiser shall have no effect on the obligation of Advertiser to pay the full amount for any SEO purchased by the Advertiser. If Advertiser has purchased the Managed Search Engine Optimization product ("SEOM") the following additional terms apply: Publisher may make updates, changes or enhancements to Advertiser's websites. Advertiser acknowledges no updates, changes or enhancements to such websites by Publisher, even those that may be deemed by Advertiser and/or Publisher to have been made in error, shall affect the obligation of Advertiser to pay the full amount for the SEO. Should Publisher acknowledge any change was made in error, the only obligation of Publisher with respect to any such error is to correct such error as soon as practicable (and in no event later than 72 hours) after notice of such error is received by Publisher from Advertiser. Under no circumstances will Publisher be responsible or liable, financially or otherwise, for any impact of Publisher initiated changes including errors, other than as stated in the immediately preceding sentence.
2. **Search Engine Marketing ("SEM").** Due to the variable results of SEM, product fulfillment may vary from targeted levels by as much as 50% in any given month of the term of the Order. In order to compensate for this variance or for any other reason, Publisher may, in its sole discretion, adjust the campaign fulfillment duration of the applicable Order to match delivered fulfillment levels on a monthly basis. Adjustment of campaign duration shall not affect the obligation of Advertiser to pay the full amount noted on the applicable Order; provided that in no event will Advertiser be obligated to pay more than the amount set forth in the applicable Order if Publisher extends the duration of the campaign as set forth above. In the event that Publisher performs any SEM pursuant to the Services performed hereunder and there is a credit to Advertiser's account of less than \$10.00 after such SEM has been performed, Publisher shall not be required to perform any SEM to offset such balance or to refund Advertiser the cash equivalent thereof.
3. **Social Media Management ("SMM").** Publisher will provide the Services on social networking sites on Advertiser's behalf and Advertiser authorizes Publisher to act on Advertiser's behalf in communications with social networking sites, and in the distribution of any Advertiser Materials on such sites. As between the parties, Advertiser retains all rights to any Advertiser Materials supplied to Publisher to submit, post or display. Advertiser represents and warrants that all Advertiser Materials submitted in connection with this SMM order will comply with all applicable social networking site terms of service.
4. **Reputation Management ("RM").** Publisher will provide data through a reputation management system that automatically monitors sources, collects and analyzes data, and reports on how Advertiser's business is perceived by its Advertisers ("**StepRep**"). Publisher will provide RM in conjunction with its Vendor, VendAsta Technologies Inc. Advertiser acknowledges and agrees that Advertiser's use of the StepRep services is subject to the terms of the terms and conditions located at <http://www.steprep.com/terms/>, as may be amended from time to time.
5. **LocalTrack.** During the term of each applicable Order, Advertiser authorizes Publisher to act on Advertiser's behalf by creating an advertising effectiveness data gathering system for each applicable Advertiser through establishing and maintaining telephone numbers (the "**Numbers**") or domain names (the "**URLs**") to be used to measure incoming calls and website usage resulting from the Advertiser's advertising campaigns on behalf of its Advertisers. All costs and expenses of establishing and maintaining the Numbers and URLs, as from time to time calculated by Publisher, will be paid by the Advertiser. To reimburse Publisher for such costs and expenses, Advertiser shall pay monthly all associated charges listed on the Order, subject to the right of Publisher to adjust such fee upon a change in such costs and expenses. Advertiser represents and warrants that the Numbers and URLs indicated on the Order are the correct primary phone numbers and domain names used by Advertiser in its business. Advertiser acknowledges that Publisher is not responsible for the use of the Numbers or URLs in any advertising campaigns not provided by Publisher. Upon completion of the term of an Order, the Numbers and URLs associated to this order will cease to function and Publisher bears no responsibility related to the cessation of the function of said URLs and /or Numbers. Publisher agrees that upon expiration or termination of the Order, at Advertiser's request, Publisher will provide commercially reasonable assistance to Advertiser to transition the URL to the Advertiser. Advertiser will be responsible for any costs incurred by Publisher in transitioning such URL to Advertiser. Advertiser acknowledges that any telephone conversation as result of the use of the Numbers may be recorded ("**Voice Recording Service**"), and that applicable law may require certain processes to be followed in connection with the use of the Voice Recording Service. Advertiser understands and acknowledges that (a) the Voice Recording Service is intended to make an electronic recording of all telephone calls made to the Numbers for purposes of "quality assurance" and "Advertiser service," and (b) when a person (the "**Caller**") makes a call to a Advertiser through a Number, the Caller will be automatically advised using a recorded message that such call may be subject to recording and monitoring ("**Call Prompt Message**") prior to the connection of the telephone call to the Advertiser. Advertiser expressly agrees and acknowledges that federal, state, and local laws may require that Advertiser provide notice to and/or receive express consent and permission from, in writing or otherwise, all agents (including employees), independent contractors, and /or other persons who are on the receiving end of the recorded telephone calls (the "**Call Receivers**"). Advertiser shall obtain all notices, consents and permissions relating to Call Receivers, as required by applicable law. Advertiser may be required from time to time to certify in writing to Publisher, its Service Provider or Vendor, and to update this certification on a monthly basis, that all Call Receivers have been notified, have consented and have given permission to have their voice, identity, and call content recorded, monitored, stored, and divulged. Advertiser agrees that Publisher has no responsibility for (i) the legality of recording, monitoring, storing, and/or divulging telephone calls and (ii) the legality of the language used in the recorded Call Prompt Message and



content as they pertain to federal, state, and local laws. Advertiser grants specific permission to Publisher, its Service Provider and or Vendors to administer, monitor, use and access Advertiser recorded calls as Advertiser's agent. Advertiser shall defend, indemnify, and hold harmless Publisher, Service Provider, and Vendors, and its and their affiliates, and its agents (including employees) from any and all claims, liabilities, and/or damages (including, but not limited to reasonable attorneys' fees and costs) that arise from or relate to Advertiser's use or misuse of the Voice Recording System. Advertiser shall not use the Voice Recording System to intimidate, harass, or otherwise violate the privacy or other rights of a Caller and a Call Receiver. If Publisher learns about any alleged misuse of the Voice Recording System, Publisher reserves the right to terminate the totality of Advertiser use of the Voice Recording System without prior written notice and without liability.

6. Websites, Mobile Sites & E-Commerce. Publisher or its Service Provider will create and maintain a website or mobile website for the applicable Advertiser on Advertiser's behalf. The creation of this website or mobile website may require Advertiser to complete implementation. Failure of the Advertiser to complete directed implementation processes shall have no effect on the obligation of Advertiser to pay the full amount owed under the Order for Website creation services. Publisher reserves the right in its sole discretion to refuse to sell and design websites to Advertiser for a site which Publisher deems is unlawful or inappropriate, constitutes harassment, racism, violence, obscenity, harmful intent, spamming, or contains unacceptable adult content, commits a criminal offence, or commits privacy or copyright infringement. Advertiser may use the Services purchased for the creation and maintenance of an interactive online store ("**Store**") for the sale of goods and services. Advertiser acknowledges and agrees that Advertiser will be solely responsible for all goods and services offered at and sold through the Store, including any claim, suit, penalty, tax, fine, penalty, or tariff arising and/or any failure to comply with any laws, taxes, and tariffs, from the end user's exercise of Internet electronic commerce through the website and/or Store. Advertiser will be solely responsible for procuring any functionality necessary to operate the Store. Notwithstanding the foregoing, Publisher agrees that it will reasonably cooperate with Advertiser to ensure that websites it creates under this Agreement can interact with the functionality provided by E-commerce providers with such provider(s) as chosen by Publisher in its sole discretion.
7. Email Marketing. The email marketing Service, and any related offerings and products, are collectively referred to herein as the "**Email Products.**" The Email Products are provided by the Vendor Constant Contact, Inc. and Advertiser acknowledges and agrees that its purchase and use of the Email Products will be subject to the additional terms and conditions located at <http://search.constantcontact.com/uidocs/CCSiteOwnerAgreement.jsp>, as such terms may be amended from time to time. Advertiser is responsible for responding to an email address verification preview email message that will be sent to the address that will be used to generate the email marketing messages. It is the responsibility of Advertiser to contact Publisher with changes prior to the specified mailing date.
8. Press Release Services ("**PRS**"). In the provision of the PRS Publisher, its Service Provider or a Vendor may, from time to time, contact and interact with Advertiser to provide content, direction and approval of the PRS. Inaction by or unavailability of the Advertiser may have a negative impact on the fulfillment or performance of the PRS. Advertiser inaction or lack of availability shall not affect the obligation of Advertiser to pay the full amount for press release services. No specific PRS will appear on any specific site or location in the syndication network.