

These Acquire Agency Terms and Conditions form part of the Agreement between Acquire Agency and the Customer entering into an Order Form with Acquire Agency for agreed upon services.

## Definitions

**“Advertising Content”** means any edited video recordings, audio recordings, pictures, ad copy, or other content or materials that Acquire Agency creates for Customer based on the Customer-Provided Content or the Acquire Agency-Provided Content.

**“Acquire Agency-Provided Content”** means any video recordings, audio recordings, pictures, or other content or materials filmed, recorded, or otherwise provided by Acquire Agency (excluding, for greater certainty, Customer-Provided Content).

**“Acquire Agency Services”** means the Consulting Services, the Advertising Development Services, and the Advertising Management Services.

**“Customer-Provided Content”** means any video recordings, audio recordings, pictures, ad copy, or other content or materials that Customer provides to Acquire Agency pursuant to this Agreement.

**“Distribution Platform”** means the third-party platforms (e.g. Facebook) used by Acquire Agency to distribute, release, and share any Advertising Content.

**“Fees”** has the meaning set out in Section 7.

**“Modifications”** means modifications, improvements, customizations, updates, enhancements, aggregations, compilations, derivative works, translations and adaptations, and **“Modify”** has a corresponding meaning.

**“Order Form”** means any order form entered into by Acquire Agency and Customer for filming, editing and distribution services, as applicable, that references these Terms and Conditions.

**“Parties”** means Acquire Agency and Customer, and **“Party”** means either one of them.

**“Personal Information”** means information about an identifiable individual.

**“Term”** has the meaning set out in Section 13(a).

## Acquire Agency Services

1. **Provisioning of the Acquire Agency Services.** Subject to Customer’s compliance with the terms and conditions of this Agreement, Acquire Agency will use commercially reasonable efforts to perform the Acquire Agency Services subscribed to by Client, as indicated in the Order Form. Acquire Agency Services may include the following:
  - (a) consulting services and training related to web optimization and other advertising best practices as specified in the Order Form (the **“Consulting Services”**);

- (b) creation of Advertising Content using Customer-Provided Content or Acquire Agency-Provided Content, as specified in the Order Form (the “**Advertising Development Services**”); and
  - (c) management of Customer’s advertising activities, as specified in the Order Form (the “**Advertising Management Services**”).
2. **Collaboration.** Customer acknowledges that Acquire Agency’s performance of the Acquire Agency Services is dependent on Customer’s performance of certain activities and tasks. Customer agrees (at its own cost and expense) to take all actions as reasonably required to enable Acquire Agency to provide the Acquire Agency Services, including:
- (a) responding to Acquire Agency’s reasonable requests for information and providing Customer-Provided Content to Acquire Agency in a usable format; and
  - (b) maintaining performance of Customer’s website, applications, and ordering sites so customers can place orders; and
  - (c) maintaining sufficient inventory of Customer’s products and services and delivers such products and services to customers that order them.
3. **Customer Restrictions.** Customer must not itself, and will not permit others to:
- (a) other than as required to advertise and promote Customer and its products and services, Modify, sub-license, sell, rent, lend, lease, make available, or distribute the Advertising Content;
  - (b) use or access the Acquire Agency Services or Advertising Content in violation of any applicable law;
  - (c) provide or transmit any Customer-Provided Content:
    - (i) that Customer does not have the lawful right to create, collect, transmit, store, use or process; or
    - (ii) that violates any applicable laws, or infringes, violates, or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity);
  - (d) build a competitive product or service to the Acquire Agency Services; or
  - (e) use the Acquire Agency Services or Advertising Content for any purpose or in any manner not expressly permitted in this Agreement.
4. **Suspension of Access; Scheduled Downtime; Modifications.** Acquire Agency may, at its discretion, suspend the Acquire Agency Services, including removing the Advertising Content from any Distribution Platform, if Customer violates any provision of this Agreement.
5. **Ownership; Reservation of Rights.**

- (a) Except as expressly provided in this Agreement, Customer retains all right, title and interest, including intellectual property rights, in and to the Customer-Provided Content. Customer grants to Acquire Agency a nonexclusive, worldwide, royalty-free, fully paid-up right to use, edit, adapt, change, alter, and Modify the Customer-Provided Content (including any content or information contained within the Customer-Provided Content) to provide the Acquire Agency Services.
  - (b) Except as expressly provided in this Agreement, Acquire Agency or its licensors retain all right, title and interest, including intellectual property rights, in and to: (i) the Acquire Agency Services; (ii) anything prepared, developed or delivered by or on behalf of Acquire Agency under this Agreement, including the Advertising Content and the Acquire Agency-Provided Content; and (iii) any Modifications to the foregoing (i) and (ii). Acquire Agency grants to Customer: (A) for Advertising Content that Acquire Agency hosts on the Distribution Platform on behalf of Customer, a nonexclusive, worldwide, royalty-free, fully paid-up right to access and share such Advertising Content through the applicable Distribution Platform; and (B) for copies of Advertising Content that Acquire Agency agrees in the Order Form to provide to Customer, a nonexclusive, worldwide, royalty-free, fully paid-up right to copy, distribute, display and use such Advertising Content (solely in the form it was provided by Acquire Agency) to promote Customer and its products and services.
  - (c) All rights not expressly granted by Acquire Agency to Customer under this Agreement are reserved.
6. **Privacy.** Customer agrees (on Customer's behalf and on behalf of each person that appears or is identified in Customer-Provided Content) to Acquire Agency's access, use, collection, storage, and disclosure of Customer's and each such person's Personal Information for the purposes authorized under this Agreement.
7. **Fees and Payment.**
- (a) **Fees.** Customer will pay to Acquire Agency the fees described in each Order Form (the "Fees"). If Acquire Agency's performance of the Acquire Agency Services requires the payment of additional fees (pursuant to the terms of this Agreement), Customer will be billed for such fees and pay the fees in accordance with this Agreement. Unless otherwise noted on an Order Form, all Fees are identified as per the Agreement and are payable by the applicable due dates set out in the Order Form. Acquire Agency may modify the Fees (including any rate cards in the Order Form) from time to time upon at least 60 days' notice to Customer.
  - (b) **Disputed Invoices or Charges.** If Customer believes Acquire Agency has charged or invoiced Customer incorrectly, Customer must contact Acquire Agency no later than 45 days after having been charged by Acquire Agency or receiving such invoice in which the error or problem appeared in order to request an adjustment or credit. In the event of a dispute, Customer will pay any undisputed amounts in accordance with the payment terms herein, and the Parties will discuss the disputed amounts in good faith in order to resolve the dispute.

- (c) Late Payment. Customer may not withhold or setoff any amounts due under this Agreement. Acquire Agency reserves the right to suspend the Acquire Agency Services until all due amounts are paid in full, in the event of non-payment for a period of more than 90 days from the invoice due date.
- (d) Taxes. The Fees set out in this Agreement do not include applicable sales, use, gross receipts, value-added, GST or HST, personal property or other taxes. Customer will be responsible for and pay all applicable taxes, duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transactions contemplated in connection with this Agreement, other than taxes based on the net income or profits of Acquire Agency.
- (e) Suspension. Any suspension of the Acquire Agency Services by Acquire Agency pursuant to the terms of this Agreement will not excuse Customer from its obligation to make payments under this Agreement.

8. **Confidential Information.**

- (a) Definitions. For the purposes of this Agreement, a Party receiving Confidential Information (as defined below) will be the “**Recipient**”, the Party disclosing such information will be the “**Discloser**” and “**Confidential Information**” means information marked or otherwise identified in writing by a Party as proprietary or confidential, or information that, under the circumstances surrounding the disclosure, the Recipient should recognize as being confidential; provided that Discloser’s Confidential Information does not include, except with respect to Personal Information: (i) Customer-Provided Content (except to the extent expressly agreed by the Parties); (ii) information already known or independently developed by Recipient without access to Discloser’s Confidential Information; (iii) information that is publicly available through no wrongful act of Recipient; or (iv) information received by Recipient from a third party who was free to disclose it without confidentiality obligations.
- (b) Confidentiality Covenants. Recipient hereby agrees that during the Term and at all times thereafter it will not: (i) disclose Confidential Information of the Discloser to any person, except to its own personnel or affiliates having a “need to know” and that have entered into written agreements no less protective of such Confidential Information than this Agreement, and to such other recipients as the Discloser may approve in writing; (ii) use Confidential Information of the Discloser except to exercise its license rights or perform its obligations under this Agreement; or (iii) alter or remove from any Confidential Information of the Discloser any proprietary legend. Each Party will take reasonable precautions to safeguard the other Party’s Confidential Information. Those precautions will be at least as protective as the precautions that the Recipient takes to protect its own Confidential Information of a similar type.
- (c) Exceptions to Confidentiality. Notwithstanding Section 8(b), Recipient may disclose Discloser’s Confidential Information: (i) to the extent that such disclosure is required by applicable law or by the order of a court or similar judicial or administrative body, provided that, except to the extent prohibited by law, the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order; (ii) to its legal counsel and other professional

advisors if and to the extent such persons need to know such Confidential Information in order to provide applicable professional advisory services in connection with the Party's business; or (iii) in the case of Acquire Agency, to potential assignees, acquirers or successors of Acquire Agency if and to the extent such persons need to know such Confidential Information in connection with a potential sale, merger, amalgamation or other corporate transaction involving the business or assets of Acquire Agency.

9. **Customer Warranty.** Customer represents and warrants to, and covenants with Acquire Agency that: (i) Customer has obtained all applicable rights and permissions to enable Acquire Agency to perform the Acquire Agency Services, including the right to distribute and reproduce the Customer-Provided Content and to grant the licenses in Section 5; and (ii) the Customer-Provided Content will only contain Personal Information in respect of which Customer has provided all notices and disclosures, obtained all applicable third party consents and permissions and otherwise has all authority, in each case as required by applicable laws, to enable Acquire Agency to provide the Acquire Agency Services.
10. **GENERAL DISCLAIMER.** ACQUIRE AGENCY DOES NOT WARRANT THAT THE ACQUIRE AGENCY SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS CAN OR WILL BE CORRECTED; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE ACQUIRE AGENCY SERVICES. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THE ACQUIRE AGENCY SERVICES (OR ANY PART THEREOF), AND ANY OTHER PRODUCTS AND SERVICES PROVIDED BY ACQUIRE AGENCY TO CUSTOMER, ARE PROVIDED "AS IS" AND "AS AVAILABLE".

TO THE EXTENT PERMITTED BY APPLICABLE LAW, ACQUIRE AGENCY HEREBY DISCLAIMS ALL EXPRESS, IMPLIED, COLLATERAL OR STATUTORY WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER WRITTEN OR ORAL, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, COMPATIBILITY, TITLE, NON-INFRINGEMENT, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.

ACQUIRE AGENCY DOES NOT ENDORSE THE ADVERTISING CONTENT AND SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY TO ANY PERSON OR ENTITY FOR ANY LOSS, DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE, OR OTHERWISE), INJURY CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER BASED UPON OR RESULTING FROM ANY ADVERTISING CONTENT.

11. **Indemnity.** Customer will defend, indemnify and hold harmless Acquire Agency, its employees, officers, directors, affiliates, agents, contractors, successors, and assigns against any and all third party liability (including damages, recoveries, deficiencies, interest, penalties and legal fees), directly or indirectly arising from or in connection with: (i) the Customer-Provided Content; (ii) Customer's breach of any of Customer's obligations, representations, or warranties under this Agreement; (iii) any personal injury, death, or property damage to the extent caused by any act or omission of Customer; or (iv) any claims arising from Customer's distribution of the Advertising Content. Customer will fully cooperate with Acquire Agency in the defense of any claim defended by Customer pursuant to its indemnification obligations under this Agreement and will not settle any such claim without the prior written consent of Acquire Agency.

12. **Limitation of Liabilities.**

The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

- (a) **AMOUNT.** IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF ACQUIRE AGENCY IN CONNECTION WITH OR UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, EXCEED THE FEES PAID BY CUSTOMER TO ACQUIRE AGENCY IN THE 12 MONTHS PRECEDING THE DATE ON WHICH THE CLAIM AROSE. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT. IN NO EVENT WILL ACQUIRE AGENCY'S THIRD PARTY SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.
- (b) **TYPE.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL ACQUIRE AGENCY BE LIABLE TO CUSTOMER FOR ANY: (I) SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (II) LOST SAVINGS, PROFIT, CONTENT, USE, OR GOODWILL; (III) BUSINESS INTERRUPTION; (IV) COSTS FOR THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES; (V) PERSONAL INJURY OR DEATH; OR (VI) PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, REGARDLESS OF CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, AND EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITIES OF SUCH DAMAGES.

13. **Term and Termination.**

- (a) **Term.** This Agreement will commence on the Effective Date and continue to be in effect for the period set out in the Order Form (the "**Term**"). Except as otherwise specified in the Order Form, the Term will automatically renew for successive one year terms (or such other period of time specified in the Order Form) unless either Party provides the other Party with written notice of its intention not to renew not less than 30 days prior to the end of the then current Term.
- (b) **Termination for Cause; Other Termination Rights.** Either Party may, in addition to other relief, suspend or terminate this Agreement if the other Party commits a material breach of any provision of this Agreement and fails within 30 days after receipt of notice of such breach to correct such material breach. Acquire Agency may terminate this Agreement for convenience upon at least 30 days' notice to Customer.
- (c) **Survival.** The following Sections, together with any other provision of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement, will survive expiration or termination of this Agreement for any reason: Section 5 (Ownership; Reservation of Rights), Section 6 (Privacy), Section 7 (Fees and Payment), Section 8 (Confidential Information), Sections 9, 10, and 11 (Customer

Warranty; General Disclaimer; Indemnity), Section 12 (Limitation of Liabilities), Section 13(c) (Survival), and Section 14 (General Provisions).

14. **General Provisions.**

- (a) **Notices.** Notices sent to either Party will be effective when delivered in person or by email, one day after being sent by overnight courier, or five days after being sent by first class mail postage prepaid to the official contact designated by the Party to whom a notice is being given. Notices must be in writing and sent: (i) if to Acquire Agency, to the following address:

Acquire Agency, % District 28, 28 Logan Avenue, Toronto, ON M4M 2M8, Canada

and (ii) if to Customer, to the current postal or email address that Acquire Agency has on file with respect to Customer. Acquire Agency may change its contact information by posting the new contact information on its website or by giving notice thereof to Customer. Customer is solely responsible for keeping its contact information on file with Acquire Agency current at all times during the Term.

- (b) **Subcontracting and Assignment.** Customer will not assign this Agreement to any third party without Acquire Agency's prior written consent. Acquire Agency may assign this Agreement or any rights under this Agreement, or delegate or subcontract all or any part of the Acquire Agency Services, to any third party without Customer's consent. Any assignment in violation of this Section will be void. This Agreement will inure to the benefit of and be binding upon the Parties, their permitted successors and permitted assignees.
- (c) **Choice of Law.** This Agreement and any action related thereto will be governed by and construed in accordance with the substantive laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflicts of law principles. The Parties will initiate any lawsuits in connection with this Agreement in Toronto, Ontario, Canada, and irrevocably attorn to the exclusive personal jurisdiction and venue of the courts sitting therein. The U.N. Convention on Contracts for the International Sale of Goods will not apply to this Agreement. This choice of jurisdiction does not prevent Acquire Agency from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.
- (d) **Construction.** Except as otherwise provided in this Agreement, the Parties' rights and remedies under this Agreement are cumulative. The terms "include" and "including" mean, respectively, "include without limitation" and "including without limitation." The headings of sections of this Agreement are for reference purposes only and have no substantive effect. The terms "consent" or "discretion", when used in respect of Acquire Agency in this Agreement means the right of Acquire Agency to withhold such consent or exercise such discretion, as applicable, arbitrarily and without any implied obligation to act reasonably or explain its decision to Customer.
- (e) **Force Majeure.** Neither Party will be liable for delays caused by any event or circumstances beyond Acquire Agency's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other

labour problems (other than those involving Acquire Agency's employees), Internet service failures or delays, or the unavailability or modification by third parties of telecommunications or hosting infrastructure or third party websites.

- (f) Severability. Any provision of this Agreement found by a tribunal or court of competent jurisdiction to be illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.
- (g) Waiver. A waiver of any provision of this Agreement must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.
- (h) Independent Contractors. Acquire Agency's relationship to Customer is that of an independent contractor, and neither Party is an agent or partner of the other. Neither Party will have, and will not represent to any third party that it has, any authority to act on behalf of the other Party.
- (i) Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations or other communications, whether written or oral.
- (j) Amendments. No amendment, supplement, modification, waiver, or termination of this Agreement and, unless otherwise expressly specified in this Agreement, no consent or approval by any Party, will be binding unless executed in writing by the Party or Parties to be bound thereby.
- (k) English Language. It is the express wish of the Parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

15. **Specific Provisions for Consulting Services.**

The following provisions apply to Customer's receipt of the Consulting Services, if applicable:

- (a) Except as otherwise agreed in writing by Acquire Agency, Client may not record, capture, or otherwise distribute any content or information provided as part of the Consulting Services. All content and information provided as part of the Consulting Services are deemed to be Confidential Information of Acquire Agency.

16. **Specific Provisions for Advertising Management Services.**

The following provisions apply to Customer's receipt of the Advertising Management Services, if applicable:

- (a) Responsibility for Advertising Strategy and Advertising Content. Customer is solely responsible for: (i) oversight of its advertising strategy (including strategic decisions regarding how and where advertising budgets are spent); and (ii) placement of and content contained in the Advertising Content. Acquire Agency will use reasonable



efforts to correct, but not responsible for, errors in Advertising Content (e.g. typos, incorrect placements of advertisements, etc.).

- (b) Responsibility for Customer Accounts and Tools (social media, websites, etc.). To the extent that Customer provides log-in information to Acquire Agency for Customer's accounts or tools (e.g. social media, Google analytics, etc.), Customer acknowledges that Acquire Agency will use reasonable efforts to safeguard, but is not responsible for, use or misuse of such accounts and tools (including content posted to such accounts and advertising spending authorizations). Customer may provide Acquire Agency with only the limited access that Acquire Agency requires to provide the Acquire Agency Services. To the extent that Customer provides additional access rights or privileges (e.g. admin-level access, ability to change spending limits, access to financials or site code), Customer does so at its own risk.
- (c) Reimbursements; Deductions from Customer Spending Account. Customer is responsible for all costs and other charges associated with advertising activities performed by Acquire Agency as part of the Advertising Management Services, including costs to place advertisements, direct marketing or targeted advertising costs, and any subscription fees associated with Customer's social media accounts (the "**Advertising Costs**"). Customer will reimburse Acquire Agency for all Advertising Costs incurred by Acquire Agency within 15 days of receiving notice of such Advertising Costs from Acquire Agency. To the extent that Customer makes available to Acquire Agency an advertising spending account (the "**Customer Spending Account**"), Acquire Agency may deduct Advertising Costs from the Customer Spending Account as such Advertising Costs are incurred.
- (d) Availability of Customer Funding. Acquire Agency may, but is not required to, incur any costs or expenses in excess of the applicable amount remaining in the Customer Spending Account. Acquire Agency may require Customer to deposit additional funds in its Customer Spending Account prior to providing additional Advertising Management Services.