

ADVERTISING SPECIFIC TERMS AND CONDITIONS

These Advertising Specific Terms and Conditions apply to Qwest's purchase of advertising Services from Supplier. For purposes of the General Terms and Conditions, advertising Services are considered Purchases. The following provisions of the Procurement Standard Terms and Conditions do not apply: (i) Specific Terms And Conditions – Services; (ii) Specific Terms And Conditions – Products; (iii) Specific Terms And Conditions – Software; and (iv) Specific Terms And Conditions – Resale.

1. DEFINITIONS:

- 1.1 "Services" means any work performed by or for Supplier in connection with the Order, including the products, materials, and other items to be prepared by or on behalf of Supplier or delivered to Qwest, as described in the Order.
- 1.2 "Supplier Materials" means previously developed materials, including without limitation software and related documentation, previously copyrighted or patented by, or otherwise proprietary to, Supplier and not originally prepared hereunder.
- 1.3 "Third-Party Materials" means any materials that are incorporated in advertising or other materials prepared by or on behalf of Supplier in connection with the Order and are owned or licensed by an entity other than Supplier or Qwest.

2. PRIOR APPROVALS:

Supplier shall submit to Qwest for prior review and approval, in adequate time as determined by Qwest to meet the production schedules agreed to by Qwest and Supplier, all copy, art (creative designs), media plans, proposed expenditures for advertising in publications, on radio and television, all agreements entered into as agent for Qwest, and all other related materials. Such approval must be confirmed in writing and shall be deemed effective only if granted by Qwest's primary contact(s), as listed in the Order and updated or otherwise modified by Qwest as necessary. Except for such primary contacts, Supplier is on notice, and shall not assume, that any employee of Qwest has authority to commit to expenditures and provide the necessary approvals that will allow for completion of projects.

3. CHANGES TO ORDER:

By written or oral notice to Supplier during the performance of Services described in any Order, Qwest may require additions to, and/or modifications, cancellation, and/or termination of, work (collectively, "Changes") covered by the Order. If not originally advised in writing, Supplier must obtain from Qwest written confirmation of all Changes.

4. INVOICES:

For Services performed on a time and materials basis, Supplier will invoice Qwest on a monthly basis by the method agreed upon by the parties. For Services performed at a fixed price, Supplier will invoice Qwest upon completion and acceptance of milestones in accordance with the payment schedule set forth in the Order.

5. ACCEPTANCE:

The time period for acceptance will be set forth in the Order. If the Services fail to conform to and/or meet any of the Specifications, Supplier shall correct and/or eliminate, without any additional compensation and to Qwest's reasonable satisfaction, any errors or deficiencies in the Services, provided that if Supplier is unable to correct or eliminate such errors or deficiencies, or if in Qwest's judgment, it is not possible or meaningful for Supplier to correct or eliminate such errors or deficiencies, Supplier shall promptly give Qwest a refund of all fees and expenses that Qwest has paid, or a discount equal to all fees and expenses that Qwest owes, in connection with the Services to which the errors or deficiencies pertain.

6. SUPPLIER PERSONNEL:

Supplier will be solely responsible for securing suitably trained and experienced personnel to perform Services hereunder. Qwest may request that Supplier provide the names of the Supplier personnel who are to perform Services hereunder, as well as their respective resumes, for Qwest's review. Qwest reserves the right to reject any person whose name is submitted by Supplier. Qwest further reserves the right to require replacement of any Supplier personnel performing Services for Qwest in the event that

Qwest determines in its sole discretion that the presence or utilization of such personnel is detrimental to the performance of Services, in which case Supplier will promptly replace such personnel and arrange for a timely transfer of knowledge and information with minimum delay.

7. DRUG TESTING:

If requested by Qwest, Supplier will, at Supplier's expense, conduct drug testing of any Supplier personnel who perform work at Qwest's facilities. Such drug testing will comply with Qwest's policies as well as any applicable laws. Supplier will report the results of any such drug testing to Qwest within 10 days of Qwest's request.

8. EFFECT OF TERMINATION:

In addition to the provisions contained in the Subsection titled "Return or Destruction" of the Section titled "Confidential Information" and the Section titled "Termination; Cancellation" of the General Terms and Conditions, immediately upon the expiration or termination of the Order for any reason, or at any time upon the request of Qwest, to the greatest extent not inconsistent with any entity's rights in Third-Party Materials and Supplier Materials, any and all used and unused advertising plans, ideas, and materials paid for by Qwest (all of which Supplier acknowledges and agrees shall be Qwest's property) shall immediately be returned to Qwest or its designee. Supplier agrees that, in the event that the Order expires or is terminated for any reason, Supplier shall give all reasonable cooperation toward transferring all reservations, contracts, and arrangements with advertising media or others for advertising space, broadcasting time, or materials yet to be used and all rights and claims thereto. All amounts due and owing for work performed prior to termination that are not the subject of a dispute shall be paid in full by Qwest.

9. THIRD PARTY EXPENSES:

9.1 Reimbursable Expenses.

Qwest agrees to reimburse Supplier for reasonable and necessary fees and expenses that Supplier pays to third parties with no mark-up or handling fee for providing Services directly to Qwest, provided however, that such fees and expenses were approved in advance in writing by Qwest and meet Qwest's standard guidelines for reimbursement which, if applicable, will be included in the Order (collectively, "Reimbursable Expenses").

9.2 Bids and Invoices.

(a) When Qwest provides prior written consent to subcontract Services, Supplier shall use commercially reasonable judgment in selecting third-party suppliers to bid on and perform such Services, provided, however, Supplier shall obtain bids from at least 3 subcontractors for any Service(s) priced in excess of \$25,000 that Supplier will subcontract; but for print/lettershop services, any print/lettershop Service priced in excess of \$10,000. Further, if a print project is estimated to exceed \$300,000, Supplier shall obtain bids from at least 4 subcontractors. Supplier shall review the bids received and recommend the bid that, in Supplier's reasonable judgment, provides the highest value to Qwest for the least cost when considering the schedule for performance and the required level of quality. The recommended bid shall be promptly sent to Qwest for approval, along with information regarding the other bid(s) received by Supplier. Qwest shall review the recommendation and the information regarding the other bid(s) and, if the recommendation is approved, provide Supplier with written authorization to proceed with the recommended subcontractor. If, for any reason, Qwest does not approve Supplier's recommendation, Qwest may give written directions to Supplier to (a) proceed with one of the other bids or (b) obtain and submit additional bids.

(b) Invoices for Reimbursable Expenses (including amounts owed to subcontractors) shall be submitted by Supplier to Qwest monthly, provided, however, with Qwest's prior written approval, Supplier may submit certain invoices (e.g., those for other production work or subcontractors) in advance or upon job completion. Expenses shall be identified (e.g., printing, lodging, meals, travel) and receipts (or, in the absence of such receipt, other documentation that will satisfy an audit of such expenses) for all expenses equal to or greater than \$50 shall be provided to Qwest and made available for audit. In the case of a subcontractor whose bid has been accepted, Supplier shall promptly forward a complete copy of the subcontractor's invoice. Any taxes

imposed on the provision of Services or materials hereunder shall be separately stated on any invoice. Qwest reserves the right to request and receive from Supplier supporting documentation regarding any taxes, expenses, or other charges that Supplier claims Qwest is obligated to pay. Qwest is under no obligation to remit any disputed amounts on any invoice until such dispute is resolved. When Supplier invoices Qwest for any payment that Supplier claims to have made to a third party, Qwest, before paying the invoice, may require Supplier to furnish evidence of Supplier's payment.

- (c) Unless Qwest agrees otherwise in writing in advance, Qwest shall not be obligated for any reason to pay any amounts hereunder that exceed the relevant amounts set forth in Supplier's estimates as previously approved by Qwest. If Supplier ever knows or expects that any fees or expenses hereunder will, or are likely to, exceed such estimates, Supplier shall immediately notify Qwest in writing of such fact or expectation as well as the amount(s) in excess and the reason(s) therefore. Supplier shall not incur or authorize such excess fees or expenses unless it receives prior written authorization from Qwest. If any term of any Supplier estimate conflicts with the Order, such conflicting term shall be deemed null and void.
- (d) Supplier acknowledges and agrees that it shall be fully and solely responsible for paying all subcontractors, agents, and others with whom Supplier makes arrangements in connection with Supplier's performance of Services under the Order, unless otherwise agreed to in writing by Qwest. Qwest reserves the option, at its sole discretion, to directly pay a subcontractor, agent or others with whom Supplier makes arrangements in connection with Supplier's performance of Services.
- (e) Supplier acknowledges and agrees that Qwest shall not be liable to Supplier or any of Supplier's subcontractors for any late fees, late-payment interest, charges, or other penalties resulting from late, incorrect, or missing Invoices for Reimbursable Expenses to Qwest in accordance with this Section 9.

10. SUPPLIER'S REPRESENTATIONS AND WARRANTIES:

10.1 Supplier Acknowledgment of Responsibility.

Supplier acknowledges and agrees that it shall be responsible for the quality, completeness, and coordination of all information, materials, aids, testimonials, projects, reports, and other items and Services developed and furnished in connection with the Order.

10.2 Additional Representations and Warranties.

In addition to the representations and warranties in the General Terms and Conditions, Supplier represents and warrants that:

- (a) the Services will be performed in a professional and workmanlike manner;
- (b) the Services will be performed in accordance with all applicable governmental laws, ordinances, codes, and regulations, including without limitation the Telecommunications Act of 1996;
- (c) the Services will be performed in accordance with all advertising guidelines, rules, regulations and orders of the Federal Trade Commission, National Advertising Review Council, National Advertising Division, National Advertising Review Board, Children's Advertising Review Unit, Electronic Retailing Self-Regulation Program, or any other body governing advertising;
- (d) the Services will conform to and/or meet all of the Specifications;
- (e) Supplier owns or will own, either directly or by written assignment from its contractors and subcontractors (which assignments Supplier shall provide to Qwest upon request), all right, title, and interest, including all intellectual property and other proprietary rights, necessary for Supplier to provide Qwest the ownership interest in and to the Work Product set forth in the Section "Work Product" of these Specific Terms and Conditions.

10.3 Compliance with Qwest Policies.

Supplier shall be responsible for abiding by and being in compliance with Qwest legal and business policies impacting the Services performed in connection with the Order, including but not limited to advertising guidelines, trademark clearance guidelines, brand guidelines, and privacy policies. Such policies and guidelines shall be provided to Supplier, upon request.

11. FURNISHING OF LABOR, TOOLS, EQUIPMENT AND MATERIAL:

11.1 Supplier Responsibility for Labor, Tools Equipment and Material.

Unless otherwise specifically stated in a writing signed by Qwest, Supplier shall furnish or contract for all labor, supervision, machinery, tools, equipment, fuel, power, materials, expendable supplies, transportation, licenses, permits, bonds, and all other items, whether of the type described or not, that may be required or appropriate in the performance of the Services except such items which Qwest specifically agrees to furnish. All materials, supplies, and other items purchased by Supplier in connection herewith shall be in Supplier's own name and account, provided, however, that in accordance with the terms and limitations of the Section titled "Agency" of these Specific Terms and Conditions, Supplier may state in its agreements with vendors that it is acting as Qwest's agent. Supplier shall be responsible for all freight and delivery, costs of materials, supplies, equipment, and other items at its work site(s) and shall be responsible for in-transit loss or damage. The parties acknowledge and agree that all labor, tools, and equipment used in connection with the Services are included in the Service fee negotiated between the parties and set forth in the Order.

11.2 Supplier Responsibility for Marks.

Supplier shall conduct in-house, on-line searches for all new trademarks, service marks, trade names, logos, and slogans ("Marks") developed or used hereunder (unless such Marks are provided by Qwest) and forward the search results to Qwest. Qwest shall be responsible for obtaining comprehensive searches and for final clearance of the Marks before Supplier uses the same in any materials created or produced hereunder. If Qwest chooses to seek to register any of the Marks, Qwest shall be solely responsible for the application and registration process, including without limitation commissioning and paying for, whether through Supplier or otherwise, any comprehensive, vendor-performed availability searches.

12. WORK PRODUCT:

12.1 Work Product.

All materials, including sketches, drawings, data, records, reports, specifications, proposals, software and related documentation, inventions, materials, ideas, concepts, research, and any other items discovered, prepared or developed by or for Supplier in the course of or resulting from performance in connection with the Order will be considered Work Product prepared for Qwest. If the Work Product prepared for Qwest includes any Supplier Materials or Third-Party Materials, Qwest will have the rights in the Supplier Materials or Third-Party Materials as set forth in the Subsection titled "Rights to Work Product" of the Section titled "Work Product, Documentation" of the General Terms and Conditions.

12.2 Third Party Materials.

Supplier shall inform Qwest in writing each time Services involve rights in Third-Party Materials, describing in detail the nature and scope.

12.3 Perfection of License.

Supplier agrees (a) not to challenge or seek to register with any governmental or other entity anywhere in the world Qwest's rights in Work Product and (b) to cooperate fully with Qwest to enable Qwest to perfect and enjoy its rights in Work Product, including without limitation executing and delivering to Qwest, whether during the term of the Order or thereafter, any document(s) that Qwest reasonably believes necessary to protect such rights.

13. CONFIDENTIAL INFORMATION:

13.1 Title and Use of Confidential Information.

Title to all property and Confidential Information owned by Qwest and furnished to Supplier under the Order shall remain with Qwest (subject to applicable limitations, if any, on rights in Third-Party Materials

and Supplier Materials). Any property and Confidential Information owned by Qwest and in Supplier's possession or control shall be used by Supplier and its suppliers only in the performance of the Order unless otherwise authorized in writing in advance by Qwest. Supplier shall give such property and Confidential Information sufficient protection to keep it confidential and shall promptly return the same to Qwest after use or upon expiration or termination of the Order or upon request.

13.2 No License.

Except as expressly set forth herein, nothing in these Terms shall be construed as granting to Supplier any right, title, or interest, including without limitation any license interest, in or to any copyrights, inventions, patents, trademarks, service marks, trade names, trade secrets, or any other property now or hereafter owned or controlled by Qwest, provided, however, that Supplier may use such property as reasonably necessary to perform the Services.

13.3 Confidentiality of the Order.

Without the prior consent of Qwest, Supplier shall not disclose to any third person the terms or conditions of the Order, the substance of any discussions between the parties, or the fact that Confidential Information is being shared between the parties, except as may be required by law, in which event Supplier shall be governed by the Subsection in the General Terms and Conditions, titled "Use and Disclosure of Confidential Information" of the Section titled "Confidential Information".

14. AGENCY:

Subject to Qwest's prior written approval, Qwest hereby appoints Supplier as its agent solely for the limited purpose of negotiating and entering into agreements with third parties for the provision of goods or services directly to Qwest in connection with the Order.

15. INDEMNIFICATION:

In addition to the indemnification provided in the Section titled "Indemnification" of the General Terms and Conditions, and subject to its procedures, Supplier will indemnify, defend and hold harmless Qwest (including its officers, directors, employees and agents) and its affiliates against any loss, cost, expense or liability (including without limitation attorneys' fees and costs and awarded damages) sustained because of (i) Supplier's failure to obtain or maintain any permits or licenses required in the ordinary course of business arising in connection with the Order, or (ii) Qwest's use of the Services, except to the extent that any such claims or demands are based solely on materials provided by Qwest under the Order and not altered thereafter, or on Marks approved by Qwest.

16. ADDITIONAL INSURANCE:

In addition to the requirements in the Section titled "Insurance" in the General Terms and Conditions, and subject to the procedures set forth therein, Supplier shall carry and maintain the insurance coverage listed below.

16.1 Advertising Agencies Professional Liability.

Advertising agencies professional liability insurance, covering errors and omissions of the Supplier and including media liability coverage, with limits of not less than \$2,000,000 per occurrence and endorsed to provide contractual liability with respect to liability assumed by Supplier under the Order. Such insurance shall provide a retroactive date prior to the date of the Order and an extended claims reporting period of not less than 1 year after the termination of the Order.

16.2 Contests, Sweepstakes or Games.

If the Services involve contests, sweepstakes or games, liability insurance will include coverage for the promotion and end-to-end administration, including coverage for over-redemption of prizes, with limits of not less than \$2,000,000 per occurrence with a retroactive date prior to the date of the Order and an extended claims reporting period of not less than 1 year after the termination of the Order.

16.3 Employee Dishonesty Insurance or Fidelity Bond.

Employee Dishonesty insurance or a Fidelity Bond covering all loss for which Supplier is legally liable, arising out of or in connection with any fraudulent or dishonest acts committed by Supplier personnel or third parties, acting alone or with others in the amount of not less than \$100,000.

16.4 Property Insurance.

“All-Risk” property insurance on a replacement cost basis covering Qwest property in Supplier’s care, custody or control.

16.5 Aircraft, Helicopters or Balloons.

If Supplier secures events which require the use of aircraft, helicopters or hot air balloons, owner/operator will provide aircraft liability covering the ownership, operation and maintenance of all owned and non-owned aircraft with limits of not less than \$5,000,000 per occurrence for bodily injury and property damage, including passengers. Qwest and Supplier are to be named as additional insured for services related to the Order.

16.6 Risk of Loss.

Supplier shall be responsible and pay any loss or damage to property owned by Qwest in Supplier’s care, custody or control. Unused premiums shall be returned to Qwest upon the expiration or termination of the Order.

16.7 Subrogation.

Policies shall contain provisions waiving any rights of subrogation in favor of the insured and against Qwest, Qwest’s representative, or any agent or subcontractor under Qwest’s control.

17. ASSIGNMENT WITH RESPECT TO CERTAIN CONTRACTS:

Notwithstanding anything to the contrary herein, any contract that Supplier shall have entered into with talent or for music or other elements for Qwest’s advertising shall, simultaneously on the effective date of termination of the Order, be assigned to Qwest or its designee, at the request of Qwest, provided that such assignment does not cause Qwest or any of its other advertising agencies to become a signatory to any collective bargaining agreements with any unions in the entertainment industry such as, without limitation, SAG, AFTRA, AMPTP, WGA, and DGA,. Upon assignment, Qwest shall assume all the rights and obligations under the contract and any union obligation that would have been applicable to Supplier, and Supplier shall be relieved of any responsibility or liability incurred after said assignment, provided, however, that Supplier shall immediately provide Qwest with a copy of all such contracts and upon request, shall provide reasonable assistance to Qwest as it takes on the obligations assumed thereunder.

18. NO CONFLICTS OF INTEREST:

Supplier affirms that it is not providing any services similar to the Services to any other entity that offers telecommunications or internet services similar to those provided by Qwest and that therefore no conflict of interest with any third-party agreement is created by the Order. Supplier agrees that if it provides Services to Qwest in a region of the world such as North America, South America, Europe, Asia, Africa, Australia, or Antarctica (each, a “Region”), Supplier shall not provide similar services to any other entity offering in that particular Region telecommunications or internet services similar to those provided by Qwest.

19. SURVIVAL:

The provisions of these Advertising Specific Terms and Conditions regarding “Effect of Termination”; “Third Party Expenses”; “Supplier’s Representations and Warranties”; “Work Product”; “Confidential Information”; and “Indemnification” and all others that by their sense and context are intended to survive the expiration of the Order will survive.

20. SEQUENTIAL LIABILITY FOR ADVERTISING:

Supplier shall make arrangements to place the advertising as agent for Qwest when a “Buy Authorization Form” has been signed by both parties and authorized by Qwest. All media placements or purchases shall be on the basis of sequential liability where Supplier shall be solely liable to the media supplier for media placed by Supplier on behalf of Qwest to the extent payment has been made from Qwest to Supplier as identified in the Order. With respect to the media suppliers, Supplier is acting as Qwest’s payment agent. For media sums owing to a media supplier, but not paid by Qwest to Supplier, Qwest shall be solely liable to the media supplier.