

Standard Terms and Conditions

Confidential

Standard Terms and Conditions for the following SOW/PO/PO: _____

These standard terms and conditions (“**Terms and Conditions**”) govern the services provided by Concentric Partners LLC pursuant to the SOW/PO/PO to which these Terms and Conditions are attached and form an integral part of the Agreement between Concentric Partners LLC and the Client that is party to the SOW/PO/PO. All defined terms used in these standard terms and conditions that are not defined in these standard terms and conditions shall have the meanings ascribed to those defined terms in the SOW/PO/PO:

1 Services.

- 1.1 During the SOW/PO/PO Term, Concentric Partners LLC will perform, if and to the extent requested by Client, the services described in the SOW/PO/PO (the “**Services**”), in accordance with the terms of the SOW/PO/PO.
- 1.2 Any services or deliverables that are not set forth in the SOW/PO/PO are out of scope. If Client would like Concentric Partners LLC to perform any out of scope services or to use any ideas, concepts, strategies, trademarks and materials (collectively, “**Out of Scope Elements and Materials**”) that Concentric Partners LLC may present or provide to Client in connection with any potential out of scope services, Concentric Partners LLC and Client will negotiate the terms of such services or such use and upon agreement will enter into a new statement of work or other written agreement setting forth the agreed upon terms. Unless and until Concentric Partners LLC and Client otherwise agree in writing, as between Concentric Partners LLC and Client, Concentric Partners LLC shall retain all rights to the Out of Scope Elements and Materials.
- 1.3 Concentric Partners LLC shall not be responsible for delays or failure to timely deliver deliverables or complete the Services to the extent caused by delays by Client or other reasons outside of Concentric Partners LLC’s reasonable control.

2 Ownership

- 2.1 As between Client and Concentric Partners LLC, any material that Concentric Partners LLC produces on Client’s behalf as part of the Services (“**Work Product**”) will become Client’s property when Client has paid Concentric Partners LLC’s invoices. As between Client and Concentric Partners LLC and upon payment of Concentric Partners LLC’s invoices, the Work Product shall be considered a work for hire for Client for copyright purposes or, if for any reason held not to be a work for hire, Concentric Partners LLC assigns to Client all of Concentric Partners LLC’s right, title and interest in and to the Work Product. Concentric Partners LLC shall cooperate with Client and execute all reasonable documents and take other necessary actions as reasonably directed by Client to effect the foregoing grant of rights.
- 2.2 The term “Work Product” shall not include (i) any pre-existing Concentric Partners LLC materials identified to Client in writing in advance and approved by Client for use (“**Pre-Existing Elements**”), (ii) any Out of Scope Elements or Materials; or (iii) any software or any research, strategies, ideas, concepts, knowledge, techniques, procedures, processes, algorithms, protocols, routines and methods, (collectively, “**Software and Tools**”), regardless of when created (including during the Services for Client) and which may be repurposed and used for multiple clients or projects

without infringing Client’s copyright in its final consumer facing material or using Client’s Confidential Information. However, insofar as Concentric Partners LLC’s rights are concerned, unless Concentric Partners LLC and Client otherwise agree in writing, including pursuant to the terms of the SOW/PO/PO, Client shall have the right to use any Pre-Existing Elements, Software and Tools as embedded in the Work Product in any manner that Client sees fit.

3 Client Responsibilities.

- 3.1 Client will timely provide copyright and trademark designations, as appropriate, as well as approval of, and substantiation for, all advertising claims. Client will be responsible for ensuring the accuracy of all advertising claims contained in materials that Client approves and for performing trademark searches beyond preliminary U.S. desktop trademark searches. Client will cooperate with Concentric Partners LLC and respond to requests for information, approvals and materials in a timely manner in order to allow Concentric Partners LLC to perform its services and meet its obligations pursuant to the SOW/PO/PO. Concentric Partners LLC will not be required to secure rights with respect to any materials provided by or on behalf of Client nor to conduct patent searches in connection with Concentric Partners LLC’s services (unless Client requests in writing that a patent search be conducted in a particular situation and Client pays the costs of such patent search). Client is solely responsible for its use of any Work Product that has not been produced in final form by Concentric Partners LLC for public distribution.

4 Third parties and Union.

- 4.1 Concentric Partners LLC is authorized to act on Client’s behalf as an agent for a disclosed principal, for the limited purpose of entering into third party agreements, after Client has approved in writing (by production estimate or other writing (including by email)) the costs and nature of third party services and materials that Concentric Partners LLC intends to procure. Client will be responsible for using services and materials procured by Concentric Partners LLC in compliance with the terms of the applicable third party agreements as provided or communicated by Concentric Partners LLC to Client.
- 4.2 The third-party services and/or deliverables are subject to and governed by the terms of the third-party contracts. Concentric Partners LLC will follow good industry practice and obtain Client’s approval with respect to the screening and selection of third-party suppliers, the terms of third-party contracts and will use commercially reasonable efforts to manage the third parties that it has contracted on Client’s behalf. Concentric Partners LLC will obtain bids from multiple third-party suppliers if determined by Client to be needed in its selection process. In the event a third-party supplier fails to perform in accordance with its commitments, Concentric Partners LLC will, on behalf of Client, use commercially reasonable efforts to get the third-party supplier to replace, reperform, cure or otherwise perform in accordance with its commitments. If the third-party supplier continues to fail to perform, Client has the ultimate authority to decide the most appropriate remediation action against the third-party supplier that is available under the third-party contract and will instruct Concentric Partners LLC accordingly. However, unless caused by Concentric Partners LLC’s negligence or wilful misconduct, in no event shall Concentric Partners LLC be responsible for any loss, failure or unauthorized action on the part of the third-party supplier.

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4.3 If any materials produced under the SOW/PO/PO are subject to the terms of any guild or union agreement (e.g., the SAG/AFTRA Commercials Contract), Concentric Partners LLC will notify Client in writing in advance, and during the SOW/PO/PO Term, so long as Concentric Partners LLC receives the requisite payments from Client in advance of payment due dates in accordance with estimates provided by Concentric Partners LLC to Client, Concentric Partners LLC will make all payments on Client's behalf as required by the applicable union or guild agreement. Client is responsible for all payments that are due pursuant to the union or guild agreements (other than any payments that would not have been due but for Agency's negligence), and at or before completion of the SOW/PO Term, Client or a third party (such as another advertising agency) that is financially acceptable to the applicable guild or union will complete and sign a union required form of Transfer of Rights/Assumption Agreement with respect to such union governed materials.

5 Confidentiality and Data

5.1 Each party may be given access to information that is identified by the other as confidential or which a reasonable person would deem to be confidential under the circumstances. Such confidential information will be kept confidential by the receiving party and may only be used by the receiving party as necessary to perform the Services and such party's obligations pursuant to the SOW/PO/PO. Each party agrees to protect the other's confidential information in the same manner that it protects its own similar confidential information, but in no event using less than a reasonable standard of care.

5.2 If Concentric Partners LLC requires access to any personal data, the parties shall agree an amendment to address applicable controls and provisions related to the use and security of such data.

6 Termination and Renewal

6.1 This Agreement is a term agreement and is not terminable prior to the end of the SOW/PO/PO Term for other than material breach of this Agreement by the other party. If Client wishes to terminate or cancel all or any portion of the SOW/PO/PO or Concentric Partners LLC's Services for any reason other than Concentric Partners LLC's material breach of this Agreement, the full Fee (and any other amounts incurred by Concentric Partners LLC in accordance with the terms of the Agreement prior to Client's instructions to cancel or stop working) shall be due to Concentric Partners LLC, notwithstanding such cancellation or termination.

6.2 If the SOW/PO/PO Term is for a period of nine (9) months or more and Client elects not to execute a subsequent Statement of Work following the scheduled termination date of the SOW/PO/PO Term (the "**SOW/PO/PO Termination Date**"), Client shall provide Concentric Partners LLC with not less than 90 days written notice of non-renewal, and, if such notice of non-renewal is provided no less than 90 days' before the SOW/PO/PO Termination Date, the term of the SOW/PO/PO shall end on the SOW/PO/PO Termination Date. Otherwise, if a new SOW/PO/PO is not entered into by Concentric Partners LLC and Client on or before the SOW/PO/PO Termination Date, the SOW/PO/PO Term (and the SOW/PO/PO Termination Date) shall be extended until the earlier of the following dates: (1) the date that is later of (i) ninety (90) days after the date that notice of non-renewal or termination is received by the party to which it is addressed, or (ii) the end of the original SOW/PO Term; or 2) the date that a new SOW/PO is

entered into by Client and Concentric Partners LLC. During the extension period and notice period, Client shall continue to pay Concentric Partners LLC the same Fees and other amounts payable, and Concentric Partners LLC shall continue to render the same Services (if and to the extent requested by Client), as were paid and provided pursuant to this SOW/PO during the original SOW/PO Term.

7 Limitation of Liability

7.1 THE SOLE AND TOTAL LIABILITY OF EITHER PARTY TO THE OTHER (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT, BY STATUTE OR OTHERWISE) FOR ANY AND ALL CLAIMS IN ANY MANNER RELATED TO THE SOW/PO, THE SERVICES OR THIS AGREEMENT (OTHER THAN CLAIMS ARISING OUT OF CLIENT'S PAYMENT OBLIGATIONS) SHALL BE PAYMENT OF DIRECT DAMAGES, NOT TO EXCEED (IN THE AGGREGATE) AN AMOUNT EQUAL TO THE TOTAL FEES PAID OR PAYABLE PURSUANT TO THE SOW/PO.

7.2 In no event shall either party be liable for any: (a) consequential, incidental, indirect, special or punitive damage, loss or expenses; or (b) business interruption; lost business; lost profits; lost goodwill; lost reputation; or lost savings (anticipated or otherwise) (in each case whether direct or indirect), or (c) loss or claim arising out of or in connection with any conclusions or recommendations made by Concentric Partners LLC based on, resulting from, arising out of or otherwise related to this agreement.

8 Other Terms

8.1 Concentric Partners LLC shall have the right to list and/or refer to Client as a client of Concentric Partners LLC's for credential, award and publicity purposes and to use any advertising materials produced by Concentric Partners LLC on Client's behalf for public distribution pursuant to the SOW/PO (after such materials have been authorized by Client for public distribution) for credential and award show purposes and for distribution to trade publications (e.g., *AdWeek*, *AdAge*, etc.) for publicity purposes.

8.2 Should any invoice (other than any amounts set forth on such invoice that Client reasonably and in good faith disputes) remain unpaid for more than thirty (30) days, interest will be paid at a rate of 1% per month or the highest rate allowed by law, whichever is less.

8.3 Any changes to this Agreement will only be effective if agreed to by both Concentric Partners LLC and Client and set forth in a written change order or amendment to this Agreement signed by both Concentric Partners LLC and Client.

8.4 This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions and each party irrevocably submits to the jurisdiction of the courts of New York in respect of any disputes in connection with this Agreement.