

Scout Talent United States of America – Terms & Conditions of Services

- A. Scout Talent Inc (“Scout” or “Scout Talent” or “the Company”) is involved in the provision of recruitment marketing and related services.
- B. The Client wants to obtain the Services from Scout Talent.
- C. Scout Talent has agreed to provide the Client with the Services in accordance with the terms of this agreement.

1. Definitions and Interpretation

1.1. Definitions

Affiliate has the meaning given to that term in the B.C. Business Corporations Act or any successor thereto;

Applicable Tax means any goods and services tax, value added tax, consumption tax, sales tax or other similar tax including, without limitation, tax applicable by law to the fees payable hereunder.

Business Day means:

- (a) for receiving a notice under clause 13, a day that is not a Saturday, Sunday or statutory holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday or statutory holiday in British Columbia and/or Ontario;

Campaign Order means the order in which these terms and conditions are referred;

Client means the main intended recipient of the Campaign Order email and their associated company;

Damages means liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis (whether incurred by or awarded against a party)) and consequential and indirect losses and damages including those arising out of any third party claim;

Force Majeure Event means, in relation to a party, anything outside the reasonable control of the party, including:

- (a) any act or omission of a third person (except for an act or omission of the party's Personnel);
- (b) fire, flood, earthquake, elements of nature or act of God; or
- (c) riot, civil disorder, rebellion or revolution.

Intellectual Property Rights means all intellectual property rights, including but not limited to, the following rights:

- (a) patents, copyright, rights in circuit layouts, designs, moral rights, trade and service marks (including goodwill in those marks), domain names and trade names and any right to have confidential information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist anywhere in the world (including Canada), whether or not such rights are registered or capable of being registered. **Invoice** means any deliverable material or document created by Scout Talent in providing the Services. **Materials** means any deliverable material or document created by the Supplier in providing the Services. **Personnel** means, in relation to a party, the officers, employees, contractors and agents of the party and any Affiliate of the party;

Privacy Laws means all privacy laws applicable to Scout Talent and the performance of the Services, including the B.C. Personal Information Protection Act and Canadian Personal Information Protection and Electronic Documents Act; and

Services means the services detailed in the Campaign Order;
and

Term as stated in the Campaign Order.

1.2. Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning; (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure; (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

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- (e) a reference to C\$, dollar or \$ is to Canadian currency;
- (f) a reference to time is to local standard time of the Scout Talent location providing services, including any Daylight Savings Time adjustments, in Vancouver and/or any other location stated in the Campaign Order;
- (g) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (k) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (l) the contra proferendum doctrine of contract interpretation does not apply to this agreement; (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and (n) headings are for ease of reference only and do not affect interpretation.

2. Acceptance

- 2.1. An email reply stating "Campaign Order Accepted" or a reply with similar meaning received by Scout Talent from the Client for the supply of Services constitutes acceptance of the terms and conditions contained in this agreement.
- 2.2. Where more than one Client has entered into this agreement, the Clients will be jointly and severally liable for all payments.
- 2.3. Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be rescinded or varied at the sole discretion of Scout Talent.
- 2.4. None of Scout Talent's Personnel are authorized to make any representations, statements, conditions or agreements not expressed by Scout Talent in writing nor is Scout Talent bound by any such unauthorized statements.
- 2.5. The Client undertakes to give Scout Talent not less than fourteen (14) days prior written notice of any proposed change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice).
- 2.6. The Client (and not Scout Talent) is responsible for verifying candidate qualifications, character and other selection criteria for all employees or contractors hired.
- 2.7. The efficacy of the websites and other methods recommended for use in connection with any campaign.
- 2.8. The efficacy of any interviewing, testing or assessment tools or recruitment services provided by Scout Talent.

3. Provision of Services

Subject to the Client performing its obligations under this agreement, Scout Talent must provide the Services to the Client in accordance with these terms and conditions.

4. Fees & Invoicing

- 4.1. Fees payable under this agreement are exclusive of Applicable Taxes. The parties agree that: (a) Scout Talent will provide the Client with an Invoice containing the fees and other charges and Applicable Taxes within One (1) business day of acceptance; and
(b) Invoices are payable within 7 Business Days of the Invoice date unless otherwise stated on the invoice.
- 4.2. If the Invoice remains unpaid for fifteen (15) Business Days after becoming due for payment then Scout Talent reserve the right to charge the Client interest accruing daily on any amount that is not paid within fifteen (15) Business Days. Interest will be charged at a daily rate of 1.5% per month from the date the invoice first became due and payable. This is without prejudice to any other remedy that Scout Talent may have in relation to this

agreement.

4.3. For the purpose of this agreement you will be deemed to have received the Scout Talent Invoice if it is:

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- (a) given to you or to your agent personally – on the day it is given to you;
- (b) sent to you at the address provided by you or to your agent by post then – within five days of posting;
and

(c) sent to you by email at the address provided by you – within 24 hours of the email being sent. 4.4. Scout Talent may increase the Fee upon the expiration of the Term, up to an additional 5% of the initial fee. Scout Talent must give the Client 7 days' notice of any increase.

5. Intellectual Property

5.1. Scout Talent owns any Intellectual Property rights in the Materials, and methodologies developed under this agreement.

5.2. This agreement does not transfer any Intellectual Property rights in the Materials, and the methodologies developed under it, to the Client and the Client must not represent that it owns those rights. 5.3. The Client

transfers any existing or future Intellectual Property rights it may have in the Materials, methodologies developed under this agreement, throughout the world to Scout Talent. The Client must do all things necessary to give effect to this clause 5.3.

5.4. Scout Talent grants the Client a non-exclusive, non-transferable license to use the Materials in accordance with clause 5.5.

5.5. The Client must:

- (a) only use the Materials for its internal business purposes and in accordance with this agreement; (b) sign any form or document reasonably required by Scout Talent so that Scout Talent can license the Materials; and
- (c) comply with Scout Talent's reasonable directions regarding use of the Materials.

5.6. If someone makes a claim against the Client that any of the Materials infringe their Intellectual Property Rights, the Client must:

- (a) give Scout Talent:
 - (i) notice of the claim;
 - (ii) full control over any proceedings and negotiations conducted, and full authority, to reach any settlement; and
 - (iii) any assistance required by Scout Talent to defend the claim; and
- (b) not make a representation or public statement about the claim without first getting Scout Talent's written consent.

5.7. If the Services require Scout Talent to use the Client's Intellectual Property rights, the Client: (a) retains ownership of those rights; and

- (b) grants Scout Talent a non-exclusive license to use those rights to provide the Services.

6. Privacy

If either party gives or arranges for another entity to give the other party personal information (as defined in the *Privacy Laws*), the party in receipt of the personal information must comply with:

- (a) the applicable *Privacy Laws*; and
- (b) the other parties' reasonable directions for the protection of the personal information, including how it collects, holds, uses and discloses the information.

7. Indemnity

7.1. The Client indemnifies and holds harmless Scout Talent and its Personnel against any Damages they sustain or incur (directly or indirectly) or proceeding seeking Damages arising out of:

- (a) a breach of this agreement by the Client; or
- (b) any negligent, unlawful or willful act or omission of the Client or its Personnel in connection with this agreement including in relation to defamation, libel, slander of title, infringement of copyright, infringement of trademarks or names of publication titles, unfair competition, breach of consumer protection or employment standards legislation, violations of rights of privacy, confidential information,

licenses, loyalty rights or other intellectual property rights.

7.2. The indemnity in clause 7.1 does not apply to the extent that the Damages result from a negligent act or omission of Scout Talent or its Personnel.

8. Limitation of Liability

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8.1. Clause 8 does not exclude or modify any condition or warranty implied into this agreement, or any liability imposed on Scout Talent, by law if to do so would contravene the law or make any part of clause 8 void. 8.2. Notwithstanding the foregoing, Scout Talent excludes liability to the Client for any special or consequential loss including loss of opportunity, lost revenue and lost profits and loss of data and any condition or warranty implied into this agreement.

8.3. Limits its liability for breach of any implied condition or warranty that it cannot exclude to the greater of (at Scout Talents Option) to the greater of re-supplying the Services or paying the cost of having the Services re supplied.

8.4. If the Client makes a claim against Scout Talent for any act or omission of Scout Talent relating to this agreement (whether the claim is based in contract, tort ((including negligence) or statute) Scout Talent's liability in respect of that claim is:

- (a) unlimited for personal injury (including sickness & death);
- (b) limited to \$10,000 for loss of, or damage to tangible property; and
- (c) for any other claim, limited in aggregate to the total paid for the particular Services that gave rise to the loss or damage as at the date the liability arose.

8.5. Scout Talent excludes liability to the Client for any special or consequential loss including loss of opportunity, lost revenue and lost profits and loss of data.

9. Warranty

9.1. The Client warrants that all information they provide in relation to the provision of the Services by Scout Talent is accurate, does not breach any law or the rights of any person and the Client acknowledges that Scout Talent may use all intellectual property in material provided by the Client throughout the world without restriction, free of charge.

9.2. The Client warrants that it has not relied on any representation made by Scout Talent, which is not expressly stated in these terms and conditions.

9.3. Where any designs or specifications have been supplied by the Client for manufacture, by or to the order of the Client then the Client warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the advertisement template does not infringe the rights of any third party.

9.4. Without limiting the generality of the foregoing, Scout Talent does not warrant and expressly denies any representations as to:

- (a) the number or quality of applicants or qualified applicants that will be generated by the Campaign Order;
- (b) the qualifications, experience or character of any candidates provided to the Clients.

10. Termination

(c) Scout Talent may, in its absolute discretion, terminate this agreement or any particular Services to be provided under this agreement, by giving the Client 1 month's written notice.

(d) The Client may terminate this agreement at any time upon payment of all outstanding Fees for the term of the agreement.

11. Solicitation of Scout Talent Personnel

11.1. Customer must not solicit

During the term of this agreement and for 12 months after its termination (for any reason), the Client must not solicit, entice away or attempt to entice away any of the Scout Talent Personnel from continuing to be employed by, or act as a consultant to, Scout Talent.

11.2. Customer's Personnel and related bodies corporate must not solicit

During the term of this agreement and for 12 months after its termination (for any reason), the Client must ensure that its Personnel, any related body corporate of it and their Personnel do not, solicit, entice away or attempt to entice away any of the Scout Talent Personnel from continuing to be employed by, or act as a consultant to, Scout Talent.

11.3. Consequences of solicitation of Supplier Personnel

If the Client does solicit, entice away or attempt to entice away any of the Scout Talent Personnel in accordance with clauses 11.1 or 11.2 the Customer agrees to pay to the Scout Talent 3 times the employee's salary or contract amount as the case may be or the equivalent annual salary that the Client has agreed to pay the Personnel whichever is the greater.

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12. Dispute Resolution

- 12.1. A party must not start court proceedings (except proceedings seeking interlocutory relief) unless it has complied with clause 12.
- 12.2. A party claiming that a dispute, difference or question arising out of this agreement has arisen (**Dispute**) must give the other party notice of the details of the Dispute (**Dispute Notice**).
- 12.3. The parties must attempt to resolve any Dispute by negotiations using the following escalation procedure: (a) when a Dispute Notice is given, each party's respective representatives must first attempt to resolve the Dispute; and
(b) if they cannot resolve the Dispute within five Business Days after the Dispute Notice is given, they must refer the Dispute to each party's chief executive officer or equivalent who must then attempt to resolve it.
- 12.4. If the parties cannot resolve the Dispute within 10 Business Days after the Dispute Notice is given:
(a) each party is free to start court proceedings; or
(b) the parties may agree to attempt to resolve the Dispute by other means such as expert determination, mediation or arbitration.
- 12.5. If a party breaches the procedure in clause 12 in relation to a Dispute, the other party need not comply with clause 12 in relation to the Dispute.
- 12.6. The parties' obligations in this agreement continue, pending the resolution of a Dispute. 12.7. The dispute resolution procedure in this clause 12 does not affect a party's right to terminate the agreement in accordance with clause (b).
- 12.8. Each party must pay its own costs of complying with clause 12.

13. Force Majeure

If Scout Talent is wholly or partially unable to provide the Services because of a Force Majeure Event then: (a) as soon as reasonably practicable after the Force Majeure Event arises, the Supplier must give the Customer notice of the extent to which the Supplier is unable to provide the Services; and (b) Scout Talent's obligations to provide the Services is suspended for the duration of the delay arising out of the Force Majeure Event; and (c) any suspension of the Services as a result of the Force Majeure Event does not constitute a breach of agreement by Scout Talent.

14. Notices and other communications

- 14.1. A notice, demand, consent, approval or communication under this agreement (**Notice**) must be:
(a) in writing, in English and signed by a person duly authorized by the sender; and
(b) hand delivered or sent by prepaid post, facsimile or email to the recipient's address for Notices specified in the Campaign Order, as varied by any Notice given by the recipient to the sender.
- 14.2. A Notice given in accordance with clause 14.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:
(a) if hand delivered, on delivery;
(b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Canada);
(c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice;
(d) if sent by email, 24 hours after the date of sending,
but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

15. Miscellaneous

- 15.1. The Client and Scout Talent agree to be bound by these terms and conditions.
- 15.2. Except where this agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this agreement.
- 15.3. A party may only assign this agreement or a right under this agreement with the prior written consent of each other party.

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- 15.4. Each party must pay its own costs of negotiating, preparing and executing this agreement.
- 15.5. Any indemnity or any obligation of confidence under this agreement is independent and survives termination of this agreement. Any other term by its nature intended to survive termination of this agreement survives termination of this agreement.
- 15.6. The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement.
- 15.7. This agreement and the Campaign Order constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 15.8. Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this agreement and any transaction contemplated by it.
- 15.9. A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or parts of the terms of this agreement continue in force.
- 15.10. A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 15.11. Except where this agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.
- 15.12. These terms and conditions shall be governed by the laws of British Columbia and the laws of Canada applicable therein. The parties irrevocably attorn to the exclusive jurisdiction of the courts of Vancouver B.C. except that Scout Talent may, at its option, enforce this agreement in any court of competent jurisdiction.
- 15.13. Scout Talent may, at its discretion, refuse to accept for publication (or remove from the site) a notice or resume if it believes the notice or resume may infringe the rights of any person or may not comply with all the laws and regulations of British Columbia.

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