

U.S. Department of Justice
Washington, DC 20530

Exhibit A to Registration Statement
Pursuant to the Foreign Agents Registration Act of 1938, as amended

INSTRUCTIONS. Furnish this exhibit for EACH foreign principal listed in an initial statement and for EACH additional foreign principal acquired subsequently. The filing of this document requires the payment of a filing fee as set forth in Rule (d)(1), 28 C.F.R. § 5.5(d)(1). Compliance is accomplished by filing an electronic Exhibit A form at <https://www.fara.gov>.

Privacy Act Statement. The filing of this document is required by the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, for the purposes of registration under the Act and public disclosure. Provision of the information requested is mandatory, and failure to provide this information is subject to the penalty and enforcement provisions established in Section 8 of the Act. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, copy of informational materials or other document or information filed with the Attorney General under this Act is a public record open to public examination, inspection and copying during the posted business hours of the FARA Unit in Washington, DC. Statements are also available online at the FARA Unit's webpage: <https://www.fara.gov>. One copy of every such document, other than informational materials, is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of any and all documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. The Attorney General also transmits a semi-annual report to Congress on the administration of the Act which lists the names of all agents registered under the Act and the foreign principals they represent. This report is available to the public in print and online at: <https://www.fara.gov>.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .22 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, FARA Unit, Counterintelligence and Export Control Section, National Security Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

1. Name of Registrant Kelly, Scott and Madison, Inc.	2. Registration Number 7402
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3. Primary Address of Registrant
303 East Wacker Drive, Suite 800, Chicago, IL 60601

4. Name of Foreign Principal Cayman Islands Department of Tourism	5. Address of Foreign Principal 350 Fifth Avenue, Empire State Building, Suite 462 New York, NY 10118
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6. Country/Region Represented
CAYMAN ISLANDS

7. Indicate whether the foreign principal is one of the following:

- Government of a foreign country¹
- Foreign political party
- Foreign or domestic organization: If either, check one of the following:
 - Partnership
 - Corporation
 - Association
 - Committee
 - Voluntary group
 - Other (*specify*) _____
- Individual-State nationality _____

8. If the foreign principal is a foreign government, state:

- a) Branch or agency represented by the registrant
Cayman Islands Department of Tourism
- b) Name and title of official(s) with whom registrant engages
Rosa Harris

¹ "Government of a foreign country," as defined in Section 1(e) of the Act, includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States.

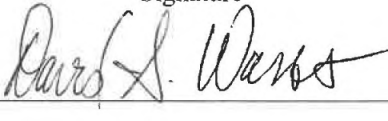
EXECUTION

In accordance with 28 U.S.C. § 1746, and subject to the penalties of 18 U.S.C. § 1001 and 22 U.S.C. § 618, the undersigned swears or affirms under penalty of perjury that he/she has read the information set forth in this statement filed pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, that he/she is familiar with the contents thereof, and that such contents are in their entirety true and accurate to the best of his/her knowledge and belief.

Date	Printed Name	Signature
05/02/2024	David Warso	/s/David Warso
05/02/2024	Jonathan Lichter	/s/Jonathan Lichter

EXECUTION

In accordance with 28 U.S.C. § 1746, and subject to the penalties of 18 U.S.C. § 1001 and 22 U.S.C. § 618, the undersigned swears or affirms under penalty of perjury that he/she has read the information set forth in this statement filed pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, that he/she is familiar with the contents thereof, and that such contents are in their entirety true and accurate to the best of his/her knowledge and belief.

Date	Printed Name	Signature
5/2/24	David S. Warso	
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXECUTION

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Date

Printed Name

Signature

5/2/24

Jonathan S. Lichter



U.S. Department of Justice

Washington, DC 20530

**Exhibit B to Registration Statement
Pursuant to the Foreign Agents Registration Act of
1938, as amended**

INSTRUCTIONS. A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances by reason of which the registrant is acting as an agent of a foreign principal. Compliance is accomplished by filing an electronic Exhibit B form at <https://www.fara.gov>.

Privacy Act Statement. The filing of this document is required for the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, for the purposes of registration under the Act and public disclosure. Provision of the information requested is mandatory, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of the Act. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, copy of informational materials or other document or information filed with the Attorney General under this Act is a public record open to public examination, inspection and copying during the posted business hours of the FARA Unit in Washington, DC. Statements are also available online at the FARA Unit's webpage: <https://www.fara.gov>. One copy of every such document, other than informational materials, is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of any and all documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. The Attorney General also transmits a semi-annual report to Congress on the administration of the Act which lists the names of all agents registered under the Act and the foreign principals they represent. This report is available to the public in print and online at: <https://www.fara.gov>.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .32 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, FARA Unit, Counterintelligence and Export Control Section, National Security Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

1. Name of Registrant

Kelly, Scott and Madison, Inc.

2. Registration Number

7402

3. Name of Foreign Principal

Cayman Islands Department of Tourism

Check Appropriate Box:

4. The agreement between the registrant and the above-named foreign principal is a formal written contract. If this box is checked, attach a copy of the contract to this exhibit.
5. There is no formal written contract between the registrant and the foreign principal. The agreement with the above-named foreign principal has resulted from an exchange of correspondence. If this box is checked, attach a copy of all pertinent correspondence, including a copy of any initial proposal which has been adopted by reference in such correspondence.
6. The agreement or understanding between the registrant and the foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and expenses, if any, to be received.
7. What is the date of the contract or agreement with the foreign principal? 10/01/2019
8. Describe fully the nature and method of performance of the above indicated agreement or understanding.

KSM buys and measures media on a cost per thousand basis against targeted consumers.

9. Describe fully the activities the registrant engages in or proposes to engage in on behalf of the above foreign principal.

KSM provides media services including "Influencer marketing"

10. Will the activities on behalf of the above foreign principal include political activities as defined in Section 1(o) of the Act¹.

Yes No

If yes, describe all such political activities indicating, among other things, the relations, interests or policies to be influenced together with the means to be employed to achieve this purpose. The response must include, but not be limited to, activities involving lobbying, promotion, perception management, public relations, economic development, and preparation and dissemination of informational materials.

11. Prior to the date of registration² for this foreign principal has the registrant engaged in any registrable activities, such as political activities, for this foreign principal?

Yes No

If yes, describe in full detail all such activities. The response should include, among other things, the relations, interests, and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored, or delivered speeches, lectures, social media, internet postings, or media broadcasts, give details as to dates, places of delivery, names of speakers, and subject matter. The response must also include, but not be limited to, activities involving lobbying, promotion, perception management, public relations, economic development, and preparation and dissemination of informational materials.

Set forth below a general description of the registrant's activities, including political activities.

Set forth below in the required detail the registrant's political activities.

Date	Contact	Method	Purpose
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12. During the period beginning 60 days prior to the obligation to register³ for this foreign principal, has the registrant received from the foreign principal, or from any other source, for or in the interests of the foreign principal, any contributions, income, money, or thing of value either as compensation, or for disbursement, or otherwise?

Yes No

If yes, set forth below in the required detail an account of such monies or things of value.

Date Received	From Whom	Purpose	Amount/Thing of Value
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13. During the period beginning 60 days prior to the obligation to register⁴ for this foreign principal, has the registrant disbursed or expended monies, or disposed of anything of value other than money, in connection with activity on behalf of the foreign principal or transmitted monies to any such foreign principal?

Yes No

If yes, set forth below in the required detail an account of such monies or things of value.

Date	Recipient	Purpose	Amount/Thing of Value
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¹ "Political activity," as defined in Section 1(o) of the Act, means any activity which the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

^{2,3,4} Pursuant to Section 2(a) of the Act, an agent must register within ten days of becoming an agent, and before acting as such.

EXECUTION

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Date	Printed Name	Signature
05/02/2024	Jonathan Lichter	/s/Jonathan Lichter
05/02/2024	David Warso	/s/David Warso
_____	_____	_____
_____	_____	_____

EXECUTION

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Date

Printed Name

Signature


5/2/24

Jonathan S. Lichter



EXECUTION

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Date	Printed Name	Signature
5/2/24	David S. Warso	
_____	_____	_____
_____	_____	_____
_____	_____	_____

MASTER MEDIA PLANNING & BUYING SERVICES AGREEMENT

THIS MASTER MEDIA PLANNING & BUYING SERVICES AGREEMENT is entered into and made effective on October 1, 2019 ("**Effective Date**") by and between The Cayman Islands Department of Tourism, having a place of business at Government Administration Building, Box 134, 133 Elgin Avenue, Grand Cayman KY 1-9000, Cayman Islands ("**Advertiser**"); and Kelly, Scott and Madison, Inc. a(n) Illinois corporation, having a place of business at 303 East Wacker Drive, Suite 800, Chicago, Illinois 60601 ("**Agency**"); individually referred to as a "**Party**" or collectively referred to as the "**Parties**".

The Parties agree as follows:

1. Definitions & Interpretation & Precedence

- 1.1 "**Accredited Vendor**" means Advertiser's chosen third party vendor, including Advertiser's chosen MRC accredited third party vendor.
- 1.2 "**Advertiser Claims**" has the meaning set forth in Section 22.1.7.
- 1.3 "**Advertiser Code of Conduct**" means the code of conduct for Advertiser set forth in Schedule 6.
- 1.4 "**Advertiser Data**" means any data and information in written or electronic form collected by Agency, Agency Affiliates, a Media Owner Group Member or a Vendor solely on behalf of Advertiser or its Affiliates in the course of providing the Services (including, but not limited to, Media Plans, Key Performance Indicators, Goals, Results, Pacing, Transaction Data, Media invoices and data collected by Agency from Advertiser Properties and Media Placements) and any data derived from Advertiser Materials or produced as a result of calculations solely using all or a portion of Advertiser Data.
- 1.5 "**Advertiser Indemnitees**" means Advertiser and its officers, directors, employees and shareholders.
- 1.6 "**Advertiser Materials**" means any data or information, content, materials, website terms and conditions, policies or guidelines provided by Advertiser or by any third party at the direction of Advertiser in connection with this Agreement, and any other Intellectual Property Rights owned by Advertiser.
- 1.7 "**Advertiser Properties**" means any websites, social media pages, mobile apps or other digital platforms that are owned, controlled or operated by Advertiser.
- 1.8 "**Affiliates**" means, as to any Person, any other Person that is controlling, controlled by, or under common control with such Person, either directly or indirectly through one or more intermediaries (with "control" having the meaning in Section 1.30 hereof). As of the Effective Date, such Agency Affiliates are listed in Schedule 4. Such Schedule will be amended from time to time as Agency acquires new members or divests itself of existing members on Schedule 4.
- 1.9 "**Agency**" means Agency and its subsidiaries. To the extent that an Agency Affiliate is providing Services, then "Agency" shall also mean the applicable Agency Affiliate.

- 1.10 **"Agency Claims"** has the meaning set forth in Section 22.2.6.
- 1.11 **"Agency Code of Conduct"** means the code of conduct for Agency set forth in Schedule 6.
- 1.12 **"Agency Data"** means all data processed by Agency which is not Advertiser Data and which Agency would otherwise collect and process independently of the provision of the Services to Advertiser.
- 1.13 **"Agency Indemnitees"** means Agency and its officers, directors, employees and shareholders.
- 1.14 **"Agency Information"** means software (including all programming code in object and source code form), Agency Data, methodology, know-how and processes and materials in relation to which the Intellectual Property Rights are owned by (or licensed to) Agency and which are:
- 1.14.1 in existence prior to the date the use of which falls within a Scope of Work; or
- 1.14.2 created by or for Agency outside of a Scope of Work and/or which are intended to be reused across its business.
- 1.15 **"Agreement"** or **"Master Media Planning & Buying Services Agreement"** means this agreement including the General Terms, Scopes of Work and Schedules.
- 1.16 **"Annual Financial Compliance Certification"** means the document set forth in Schedule 3.
- 1.17 **"Annual Scope of Work"** means the Scope of Work setting out the Services to be provided by Agency on an annual basis, in the form as set out in Part 1 of Schedule 1, and as may be amended by the Parties from time to time in writing.
- 1.18 **"Applicable Laws"** means all applicable federal, state, and local laws, rules, guidelines and regulations governing the provision of the Services, including Data Protection Legislation, the Self-Regulatory Principles for Online Behavioral Advertising (as issued by the Digital Advertising Alliance), the FTC Enforcement Policy Statement on Deceptively Formatted Advertisements and Native Advertising: A Guide for Businesses, and the Word of Mouth Marketing Association (WOMMA) Social Media Disclosure Guide.
- 1.19 **"Associate"** means any individual that is an employee, officer, director, agent, or authorized representative of Agency, an Agency Affiliate or Advertiser.
- 1.20 **"Auditor"** means external third-party auditor(s), industry specialist(s) and/or an internal Advertiser Associate(s).
- 1.21 **"Authorized Agency Approver"** means those Agency Associates specified in the applicable Scope of Work who have the authority to bind Agency contractually in all matters relating to this Agreement (and any successor(s) notified to Advertiser).
- 1.22 **"Authorized Advertiser Approver"** means those Advertiser Associates specified in the applicable Scope of Work who have the authority to bind Advertiser contractually in all matters relating to this Agreement (and any successor(s) notified to Agency).

- 1.23 **"Barter"** means a transaction in which two unrelated parties exchange goods or services without cash payment and otherwise compliant with GAAP, related FASB rules, and the Tax Equity and Fiscal Responsibility Act of 1982.
- 1.24 Intentionally Omitted.
- 1.25 **"Blacklist Content"** means what is set forth in Section 7.3, which may be amended by Advertiser from time to time.
- 1.26 **"Business Day"** means any day other than a Saturday, Sunday or federal (U.S. and Cayman) holiday.
- 1.27 **"CAN-SPAM Act"** means the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (15 U.S.C. 7701) and any successor legislation.
- 1.28 **"Change History"** means the history of changes to specified Advertiser Data, including, but not limited to, timestamp, identity of the Person who made the change, name of item changed, value before the change, and value after the change.
- 1.29 **"Claims"** means any claims, demands, or causes of action brought by a third party.
- 1.30 **"Control"** or **"Controlling"** means the ownership or power to manage or direct the affairs of the Person, whether by ownership of voting securities, by contract, or otherwise.
- 1.31 **"Competing or Antithetical Products or Services"** means any Caribbean island, city, or other Caribbean destination or property.
- 1.32 **"Conflicts of Interest"** means any situation, arrangement, understanding, association, or agreement which, if not disclosed or otherwise authorized might, in the reasonable opinion of Advertiser:
- 1.32.1 jeopardize the ability of Agency an Agency Affiliate or Associates of either to represent Advertiser's best interests in providing Services;
 - 1.32.2 compromise the impartiality of Agency, an Agency Affiliate or Associates of either in providing Services, including:
 - (a) any bonus or incentive to Associates based on upon spending recommendations;
 - (b) any undisclosed financial interests or investments by Agency, an Agency Affiliate or Associates (whether by way of equity ownership, warrants, or otherwise or in the capacity of a director, officer, or consultant) in a third party that Agency recommends to Advertiser or provides services to Advertiser as part of Agency's Services.
 - (c) the provision or receipt by Agency or and Agency Affiliate of any Services Provided at a Premium with a third party that Agency recommends to Advertiser;

- (d) the establishment by Agency or an Agency Affiliate of a "preferred partner" or other equivalent relationship with other Agency Affiliates, Media Owner Group Members or Vendors; or
- (e) the referral by Agency to an Agency Affiliate or Related Party for goods or services, including goods or services connected to any Media Placement, e.g., Native Advertising and outdoor billboards.

For the avoidance of doubt, disclosure referred to in this definition shall mean that Advertiser has been informed that a Conflict of Interest with a non-Competing or Antithetical Product or Service may exist with respect to a proposed Media Placement with a cost of \$1,000,000USD or more, and has had the opportunity to approve such Media Placement in writing.

- 1.33 "**Confidential Information**" means information, as otherwise provided in Section 19, in oral, tangible or electronic form relating to either Party, its Affiliates, advertisers and/or customers (including their personal data), businesses, business plans or affairs, which information is proprietary and confidential to such Party, including materials protected by the Defend Trade Secrets Act.
- 1.34 "**Data Protection Legislation**" means all applicable local, state, federal, regional, divisional, and foreign law (including common law), statutes, rules or regulations, guidelines, self-regulatory practices, reporting requirements, ordinances, orders, decrees, judgments, consent decrees, settlement agreements and regulations applicable to a respective Party and privacy or data protection including, but not limited to, compliance with, as applicable, EU Data Protection and Privacy Laws, the GLBA, PCI DSS, state laws requiring notice of breaches involving PII, the Children's Online Privacy Protection Act (15 U.S.C. Section 6501-6506) and the CAN-SPAM Act.
- 1.35 "**Deliverables**" means all reports, Media Plans, Advertiser Data, Records and other work product created or developed by Agency or on Agency's behalf in connection with this Agreement.
- 1.36 "**Digital Media Placement**" means all Media Placements in digital media including, but not limited to, search, digital out-of-home media, over-the-top and advanced television, display, video, mobile and social media.
- 1.37 "**Dual Rate Cards**" means the agreement by Agency or an Agency Affiliate with a Media Owner Group Member or a Vendor to charge lower rates for Media Placements purchased by Agency Affiliates (e.g., agency trading desks) purchasing Media Placements through Principal Transactions versus when Agency or an Agency Affiliate purchases as an agent for Advertiser.
- 1.38 "**Editorial Content**" means independent news reporting or editorial content.
- 1.39 "**Effective Date**" means the date set forth in the preamble of this Agreement.
- 1.40 "**EU Data Protection and Privacy Laws**" means the General Data Protection Regulation (2016/679) as may be amended from time to time. Without limiting the foregoing, in the event the related ePrivacy regulation or a similar regulation is adopted and implemented by the European Union, the term "EU Data Protection and Privacy Laws" shall include such regulation.
- 1.41 "**Expenses**" means reasonable transportation, hotel, meals and other expenses incurred by Agency in connection with the supply of Services, provided that such expenses have either

received Advertiser's prior written approval or, where applicable, are in accordance with any expense policies which have been supplied to Agency or set out in the applicable Scope of Work.

- 1.42 "**FASB**" means the Financial Accounting Standards Board.
- 1.43 "**Fees**" means the fees due to Agency in connection with the Services as determined in accordance with this Agreement and the relevant Scope(s) of Work. For the avoidance of doubt, the Fees do not include Expenses or Third-Party Costs.
- 1.44 "**Force Majeure**" means reasons or causes beyond a Party's reasonable control, including war (whether or not declared), sabotage, insurrection, rebellion, riot or other act of civil disobedience, act of a public enemy, act of any government or any agency or subdivision thereof, fire, accident, explosion, epidemic, quarantine, restrictions, storm, flood, earthquake, or other act of God, which could not be reasonably expected to be avoided, or new laws or regulations forbidding or limiting the execution of this Agreement.
- 1.45 "**GAAP**" means the Generally Accepted Accounting Principles adopted by the U.S. Securities and Exchange Commission (SEC) and administered by the FASB. In the event the SEC should replace GAAP with the International Financial Reporting Standards (IFRS), then and only in such event wherever GAAP is referred to herein, the IFRS shall apply.
- 1.46 "**General Terms**" means the terms and conditions set out in this Agreement but not including any other Schedules and/or Scopes of Work.
- 1.47 "**GLBA**" means the Gramm-Leach-Bliley Financial Modernization Act of 1999 and the regulations and interagency guidance and guidelines issued pursuant to it and its implementing regulations.
- 1.48 "**Goal**" means an expected Result for a given Media Placement.
- 1.49 Intentionally Omitted.
- 1.50 "**Indemnified Party**" means the Party being indemnified by another Party under this Agreement.
- 1.51 "**Indemnifying Party**" means the Party indemnifying another Party under this Agreement.
- 1.52 "**Intellectual Property Rights**" means any and all intellectual or proprietary rights, including:
- 1.52.1 any patents or patent applications;
 - 1.52.2 any trademarks (whether registered);
 - 1.52.3 inventions, discoveries, utility models and improvements whether capable of protection by patent or registration;
 - 1.52.4 copyright or design rights (whether registered or unregistered);
 - 1.52.5 database rights; and
 - 1.52.6 any goodwill in any trade or service name.
- 1.53 "**Key Individuals**" means individuals named in the Scope of Work and identified as Key Individuals.

- 1.54 "**Key Performance Indicator**" or "**KPI**" means agreed upon measures set forth in a SOW or Media Plan by which the performance of a Media Placement and Agency will be judged.
- 1.55 "**Losses**" means losses, damages, liabilities, penalties, fines, awards, costs and expenses (including reasonable outside legal and other professional expenses).
- 1.56 "**Media**" means all platforms upon which Media Placements are placed that now exist or may hereinafter be invented, including but not limited to television, radio, print, outdoor, Internet, and mobile.
- 1.57 "**Media Owner**" means the Person that actually publishes or airs the Media Placements.
- 1.58 "**Media Owner Group Members**" means any Media Owner and all of its Affiliates.
- 1.59 "**Media Placement**" means advertising, sponsorship or promotional Media purchased by Agency, either directly or indirectly from third parties or Agency Affiliates, in connection with the provision of Services. Payments for Media Placements may take any form, including cash, credits, or the transfer of funds by digital means.
- 1.60 "**Media Plan**" means a plan adopted by Advertiser that may or may not have been created by Agency that specifies the Media on which Advertiser's Media Placements should appear in order to optimize Advertiser's return on investment in the Media Placements and to reach Advertiser's objectives and desired consumer demographic and psychographic profiles. A Media Plan may also reflect creative content and production requirements necessary to make an effective Media Placement.
- 1.61 "**MRC**" means Media Rating Council.
- 1.62 "**Native Advertising**" means any Media Placements (and all hyperlinks that link to any such editorial) that constitute product integration, content sponsorship, or any other form of advertising that bears a similarity to the news, feature articles, product reviews, entertainment, and other material that surrounds it online.
- 1.63 "**Net Media Spend**" means the actual payment(s) made to a Media Owner Group Member for Media Placements.
- 1.64 "**Non-Human and Fraudulent Traffic**" means data that counts or uses in calculations, anything other than natural persons viewing actually displayed Media Placements in the normal course of using any device, including, without limitation, browsing through online, mobile or any other technology or platform. For the avoidance of doubt, Non-Human and Fraudulent Traffic includes, without limitation, the inclusion or counting of views: (i) by a natural person who has been engaged for the purpose of viewing such Media Placements, whether exclusively or in conjunction with any other activities of that person; (ii) by non-human visitors; (iii) combinations of displays directed or redirected by any combination of (i) and/or (ii); and (iv) that are not actually visible to the human eye, discernible to human senses or perceived by a human being.
- 1.65 "**Non-Human and Fraudulent Traffic Prevention**" means technology, methodologies and actions to (i) prevent Non-Human and Fraudulent Traffic; (ii) detect Non-Human and Fraudulent Traffic should it occur; and (iii) prevent continuation and/or recurrence of occurrences thereof.

- 1.66 **"Pacing"** means the variance between actual Results and Goal during a given time period.
- 1.67 **"PCI DSS"** means the Payment Card Industry Data Security Standards maintained by the PCI Security Standards Council, LLC, or its successor.
- 1.68 **"Person"** means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, governmental authority or other entity.
- 1.69 **"PII"** means any information (i) which by itself or in combination with other information (A) can identify an individual, including, address, telephone number, account numbers, demographic, email addresses, (B) has, pursuant to Applicable Law, been determined to be information which can identify an individual and (ii) any other information that relates to an individual who has been so identified or authenticated.
- 1.70 **"Principal or Inventory Mark-Up"** means the maximum percentage by which Agency or an Agency Affiliate may mark-up a Principal or Inventory Sale over the cost of such goods or services incurred by Agency or an Agency Affiliate.
- 1.71 **"Principal or Inventory Sale"** means the sale to Advertiser of Media Placements obtained and held by Agency, or an Agency Affiliate regardless of how Agency or Agency Affiliate obtained such Media Placements (e.g., through a Principal Transaction, Barter, private exchange or pooling arrangement, agency inventory, free time from Media Owners, etc.).
- 1.72 **"Principal Transaction"** means the "at-risk" acquisition or purchase of time, space, goods or services from third parties by Agency or an Agency Affiliate acting as a principal instead of as an agent for a disclosed principal. Principal Transactions include purchases by Agency of time, space, goods or services from an Agency Affiliate. Principal Transactions shall not include a transaction or a series of transactions by Agency or an Agency Affiliate that rely upon subsequent payments by Advertiser or other customers (in excess of compensation to which Agency or an Agency Affiliate is entitled to receive) that in the normal course of business materially limits or effectively eliminates actual risk of loss by Agency or an Agency Affiliate in connection with such purchase of time, space, goods, or services regardless of whether Agency or an Agency Affiliate is referred to as a "principal" in such transaction(s).
- 1.73 **"Programmatic Media"** means the buying and selling of online ad inventory primarily through automated methods rather than human actions, this includes, but is not limited to Real-Time Bidding (or "RTB") and purchases through digital platforms, including, networks, exchanges, trading desks, and demand-side platforms (DSPs).
- 1.74 **"Project"** means any project(s) agreed between the Parties from time to time under which Agency is to perform Services to Advertiser in addition to those under an Annual Scope of Work, as more fully described in this Agreement and the applicable Project Scope of Work.
- 1.75 **"Project Commencement Date"** means the commencement date of each Project as set out in the corresponding Project Scope of Work.
- 1.76 **"Project Completion Date"** means the date by which each Project is to be completed, as set out in the corresponding Project Scope of Work.

- 1.77 **"Project Scope(s) of Work"** means a Scope of Work setting out the Services to be provided by Agency for a Project, in the form as set out in Part 2 of Schedule 1, and as may be amended by the Parties from time to time in writing.
- 1.78 **"Project Term"** means the period during which the Services for each Project will be provided as specified in the applicable Scope of Work.
- 1.79 **"Rebates and Incentives"** means, without limitation, any and all third party payments, incentives or other benefits (including but not limited to, cash rebates or other incentives, agency volume bonifications or AVBs; receipt of a volume discount, compensation or rewards from media buys; discounted or unpaid media space or inventory; volume, early payment or other discounts; commissions; rewards, compensation, refunds or bonuses; bonus inventory, free or discounted media, sponsorship or promotional space; Value Pots; Services Provided at a Premium; consulting or research agreements, service level agreements or any other source of financial or other benefit) receivable directly or indirectly by Agency or an Agency Affiliate from third parties, including Media Owner Group Members and Vendors, which are either directly or indirectly related to:
- 1.79.1 Advertiser's Media Placements; and/or
- 1.79.2 Advertiser's Media Placements that are included in the aggregate traded volume across all or multiple advertisers of Agency or an Agency Affiliate with the relevant third party, including Media Owner Group Members and Vendors, regardless as to whether these amounts or benefits are calculated as a function of actual or anticipated media volume or given as a fixed amount and regardless of whether these amounts are given in advance or for achievement of particular spending thresholds.

In each case awarded by the Media Owner or relevant third party, received by Agency, and calculated and earned on spend that included spend by the Advertiser under this Agreement. Without limiting the foregoing, anything in the nature of Rebates and Incentives owed to or received by Agency or an Agency Affiliate on account of creative or production work performed on Advertiser's behalf under this Agreement shall be included within the definition of "Rebates and Incentives" as used herein.

For purposes of calculating Advertiser's Rebates and Incentives ("Rebates and Incentives"), such term shall mean the pro-rated share of the total Rebates and Incentives in a given Year, the numerator of which is Advertiser's total spending placed via Agency or an Agency Affiliate with such third party, including Media Owner Group Members and Vendors, and the denominator of which is the total aggregate spending by Agency or an Agency Affiliate with such third party, including Media Owner Group Members and Vendors. Where a Rebate and Incentive is free or discounted inventory, Rebates and Incentives shall mean the pro-rated share of such inventory at a day part/quality mix consistent with the average mix with the same Media Owner, or if the Advertiser consents, the revenue generated by the Agency Affiliate from the sale of such inventory to a third party.

- 1.80 **"Records"** means, insofar as they relate to Advertiser's Media Placements:
- 1.80.1 all Media Placements and any and all other purchases and payments incurred under this Agreement and the financial records showing such transactions;

- 1.80.2 records relating to the calculation and verification of Expenses, Fees, Third Party Costs and Principal or Inventory Mark-Up;
- 1.80.3 all data, contracts, terms and conditions, purchases, sales and payments (received or incurred) and all other documentation (including purchase orders and Third Party Contracts and proof of appearance) between Agency and Agency Affiliates with Media Owner Group Members or Vendors that provide time, space, goods or services to Advertiser or relate to Advertiser, the Media Placements, Rebates and Incentives or Unbilled Media;
- 1.80.4 any and all documentation reasonably required by the Auditor or Advertiser to validate the allocation of Unbilled Media, Rebates and Incentives, Services Provided at a Premium and any other discounts, rebates, bonuses, payments, free space, service level agreements, or any other value afforded to Agency and/or Agency Affiliates contemporaneously or retrospectively by third parties, including Media Owner Group Members and Vendors. Where necessary for the calculation of Rebates and Incentives, access will be given to total Agency and Agency Affiliate volume data from Agency's and Agency Affiliate financial records; and
- 1.80.5 any other records reasonably required by the Auditor or Advertiser to audit pursuant to Section 18.

but "Records" shall not include any of the following information relating to the Agency: other clients or employee payroll and personnel information.

- 1.81 "**Related Parties**" means any Person in which Agency or its Affiliates has a financial interest or investment in and which also provide goods or services in connection with Agency's Services.
- 1.82 "**Restricted Staff**" means Agency Associates providing Services to Advertiser under this Agreement.
- 1.83 "**Result**" means a quantified measure of advertising performance for a given Key Performance Indicator.
- 1.84 "**Scope of Work**" means the Annual Scope of Work together with any Project Scope(s) of Work in the form set out in Schedule 1 as agreed and signed by the Parties from time to time containing a description of the relevant Services.
- 1.85 "**Services**" means the services to be supplied by Agency under this Agreement as set out in the relevant Scope(s) of Work, which includes the provision of the Deliverables.
- 1.86 "**Services Provided at a Premium**" means:
 - 1.86.1 any goods or services provided by Agency or Agency Affiliates to third parties, including Media Owner Group Members and Vendors, which are above the true market value for such goods or services; or
 - 1.86.2 any goods or services provided by third parties, including Media Owner Group Members or Vendors to Agency or Agency Affiliates which are below the true market value for such goods or services.

- 1.87 "**Signature**" means a handwritten signature or digitally secured electronic signature through the use of a secure electronic signature creation device.
- 1.88 "**Term**" means the duration of this Agreement as set forth in Section 3.1.
- 1.89 "**Territory**" means the United States and the Cayman Islands, unless expressly specified otherwise in the applicable Scope of Work.
- 1.90 "**Third Party Contracts**" means contracts entered into by Agency or Agency Affiliates with Vendors or Media Owner Group Members in respect of Services.
- 1.91 "**Third Party Costs**" means all third-party costs incurred by Agency or any Agency Affiliates on behalf of Advertiser in performing the Services, including Vendor and Media Owner Group Member costs. For the avoidance of doubt, Third Party Costs do not include Agency's Fees or Expenses.
- 1.92 "**Transaction Data**" means performance metrics as well as pricing, costs and fees incurred in the process of purchasing any Media for Advertiser (whether by negotiation or winning bid, independently or jointly with other Agency clients) and any other data reasonably requested (per IAB's OpenRTB Specifications or similar industry standard or guidelines) by Advertiser in order to validate Media Placements and the performance, costs, expenses and Media Owners and Vendors leveraged along the supply chain.
- 1.92.1 "Transaction Data" includes, but is not limited to, event logs (impressions, clicks, conversions) and associated metadata (also referred to as log files).
- 1.92.2 "Transaction Data" costs should be itemized by Media Owner and Vendor and should indicate net fees paid to each Media Owner and Vendor leveraged in the process of purchasing Media for Advertiser (either independently or jointly with other Agency clients)
- 1.93 "**Unbilled Media**" means amounts in respect of Media Placements for which Advertiser has paid Agency in full or in part, but where the cost for the Media Placement remains unbilled in full or in part by the relevant Media Owner.
- 1.94 "**Value Pots**" means free or otherwise discounted Media or benefits provided by a Media Owner or Vendor to Agency or Agency Affiliates as a consequence of anticipated Media volume or provided as a fixed amount or share of expenditure which is not, at the time it is given, client specific.
- 1.95 "**Vendor**" means any Person (other than a Media Owner) that is required for the delivery, purchase or placement of the Media Placements and/or Agency's provision of Services hereunder, including, without limitation, technology platforms (e.g., demand-side platforms, supply-side platforms, trading desks, ad exchanges, re-targeting companies, advertising networks, etc.), market research companies (e.g., MRI, Mendelsohn, Audit Bureau of Circulation, SRDS, Nielsen Advviews, etc.), and technical service providers (e.g., providers of ad serving/delivery, ad tracking, listening and community management tools and other technology/technical services). For the avoidance of doubt, subject to Section 6.2, a Vendor may also be an Agency Affiliate, Related Party or Media Owner Group Member hereunder.
- 1.96 "**Viewability Standards**" means, unless otherwise agreed with the Advertiser with respect to display Media Placements that are bought based on viewability thresholds, the request MRC

standard percentage of the pixels for such Media Placement is in view at any point in time and, with respect to video Media Placements, the MRC standard percentage of the video is on screen or viewable and at the video Media Placement is played, with audio on after user initiation. With respect to mobile Media Placements, Viewability Standards will be consistent with the MRC Viewable Ad Impression Measurement Guidelines that are applicable to mobile, but will be no less favorable than those used by Agency for any other Advertiser of Agency for the same or similar time, space, goods or services. Unless otherwise agreed with Advertiser, in no event shall Viewability Standards for Media Placements purchased based on viewability thresholds be less than those generally recognized in the industry by the MRC/IAB viewability recommendations detailed at: (http://www.mediaratingcouncil.org/063014%20Viewable%20Ad%20Impression%20Guideline_Final.pdf).

- 1.97 “**Whitelist**” means a list of Advertiser’s approved third-party websites as described in Section 7.
- 1.98 “**Year**” means the twelve (12) month period commencing on and from the Effective Date and each twelve (12) month period thereafter during the Term.

2. Appointment & Scope of Work

- 2.1 During the Term, Agency will perform the Services to Advertiser in the Territory in accordance with the Annual Scope of Work and any Project Scopes of Work (if applicable) which are agreed to and executed between the Parties from time to time in writing. Agency shall perform the Services in a timely and professional manner using the degree of care, skill, and diligence generally observed by other first-class media and marketing communications agencies, and in accordance with the highest professional and industry standards relevant to the Services as reasonably anticipated based on the applicable Scope of Work.
- 2.2 Except as expressly permitted under a Scope of Work or by an Authorized Advertiser Approver in writing, all Services will be performed by Agency employees and not by any other Person (e.g., not by a subcontractor, Agency Affiliate, Vendor, etc.). Agency must obtain permission, on a case-by-case basis from an Authorized Advertiser Approver before engaging any subcontractor and shall disclose the name of any such proposed subcontractor and shall identify in writing whether the proposed subcontractor is an Agency Affiliate or Related Party.
- 2.3 Agency shall remain responsible for the performance of all of its obligations under this Agreement, and for the performance of all Agency Associates and subcontractors providing Services hereunder. Any agreement between Agency and a permitted subcontractor must contain terms and provisions consistent with those contained in this Agreement.
- 2.4 Agency will act in all Third-Party Contracts with regard to the provision of Services set out in a Scope of Work as an agent for a disclosed principal, unless an Authorized Advertiser Approver agrees in advance on a case-by-case basis to a Principal or Inventory Sale. Should an Authorized Advertiser Approver and Agency agree to a Principal or Inventory Sale from pre-identified third parties (including Agency Affiliates) in certain authorized instances, neither the transparency of such transactions nor Agency’s duty to act in the best interest of Advertiser shall be limited. It is Agency’s sole responsibility to obtain and retain all authorizations for Principal or Inventory Sales.

- 2.5 The Parties may agree on new Projects from time to time by agreeing to new Project Scopes of Work in writing which will automatically form part of this Agreement once signed by both the Authorized Agency Approver and Authorized Advertiser Approver.
- 2.6 The Annual Scope of Work may incorporate one or more Schedules which will form part of this Agreement for the duration of the Annual Scope of Work.
- 2.7 A Project Scope of Work may incorporate one or more Schedules which will form part of this Agreement only for the duration of that Project.
- 2.8 Agency hereby represents and warrants that as of execution of this Agreement, Agency is independent and not affiliated or associated with any agency holding company. In the event that Agency is in good faith negotiations with a holding company for a potential partnership, acquisition, or similar business arrangement, Agency must promptly notify Advertiser in writing detailing such potential arrangement. If Agency completes such arrangement during the Term hereof, the Parties shall execute an addendum to this Agreement with terms and conditions covering the new holding company relationship, including, without limitation, transparency obligations of said holding company. Without limiting any terms and conditions in this Agreement, Agency further acknowledges that Advertiser may, in its sole discretion, terminate this Agreement upon no fewer than thirty (30) days' written notice if the event of any acquisition of Agency by a holding company.

3. Term

- 3.1 This Agreement will commence on the Effective Date and will continue for a period of five (5) years unless this Agreement is earlier terminated in accordance with Section 25.
- 3.2 Where the Parties agree on Projects in addition to the Annual Scope of Work, each such Project will commence on the Project Commencement Date and continue until the Project Completion Date, subject to earlier termination in accordance with Section 25.

4. Advertiser's Obligations

- 4.1 Advertiser will provide Agency with clear instructions as to its requirements for the Services to be included in a Scope of Work. Advertiser will promptly inform Agency if Advertiser considers that any Deliverables submitted to Advertiser by Agency are inadequate or non-compliant with this Agreement or the applicable Scope of Work.
- 4.2 Advertiser will provide to Agency promptly and at no charge any Advertiser Materials necessary to provide the Services. Advertiser will ensure that it has all rights and licenses in place to enable use of all Advertiser Materials by Agency in accordance with this Agreement and the applicable Scope of Work.
- 4.3 Advertiser will comply with the Advertiser Code of Conduct.
- 4.4 Advertiser shall ensure that the Advertiser Properties contain adequate privacy statements for the purposes anticipated by the Agreement at all times.

- 4.5. Agency shall provide to Advertiser prior written notice of any specific requirements in proposed Third Party Contracts which require its compliance with obligations not captured herein. In response, Advertiser shall provide written notice to Agency of its willingness or inability to comply with any such requirements,

5. Agency's Service Delivery

- 5.1 Agency will provide Advertiser with clear instructions as to Advertiser Materials that Agency reasonably requires to perform the Services.

- 5.2 Agency will:

5.2.1 apply such time, attention, and reasonable skill and care as may be necessary or appropriate for its proper performance and provision of the Services;

5.2.2 use industry and proprietary tools and data for the provision of Services that are generally accepted as suited to protect Advertiser's best interests;

5.2.3 comply with all Applicable Laws in connection with its performance of Services hereunder;

5.2.4 comply with all reasonable directions regarding the Services communicated to it from time to time by Advertiser;

5.2.5 keep Advertiser Materials and Advertiser Data that are in its possession or control safe and secure;

5.2.6 deliver all Deliverables by the dates set out in the applicable Scope of Work or any other delivery date(s) agreed by the Parties in writing; and

5.2.7 comply with the Agency Code of Conduct.

- 5.3 If at any time Agency becomes aware that it may not be able to perform the Services or deliver any Deliverables by any date set out in the applicable Scope of Work (or any other deadline agreed by the Parties in writing), Agency will promptly notify Advertiser and give details of the reasons for the delay. Unless the delay is caused by Force Majeure, in which case the provisions of Section 27 will apply, Agency's failure to materially perform the Services would represent a material breach of this Agreement entitling Advertiser to terminate this Agreement if the breach is not remedied in accordance with Section 25.5.2.

- 5.4 Where Advertiser introduces a particular policy that, due to regulatory, legal or industry code or best practices requirements, is relevant to the Services, Agency will comply in a timely manner with that policy once provided to Agency in writing. Agency will comply with any other Advertiser policies that are supplied to it in writing. In the event of a conflict between this Agreement and an Advertiser policy, Agency will notify Advertiser in writing and the Parties will use their reasonable efforts to resolve the conflict in question.

- 5.5 Agency will maintain a business continuity and disaster recovery plan in respect of the provision of the Services and will provide a copy to Advertiser. Agency may revise the plan as necessary during the Term but must keep Advertiser informed of any material changes to the plan.
6. **Agency Services and Transparency**
- 6.1 Revenue earned by Agency or Agency Affiliates in connection with the Services provided to Advertiser shall solely be the Fees, unless otherwise agreed in writing or set out herein. It is the intent of the parties that neither Party shall earn money through the use of funds from the other Party. Should Agency or an Agency Affiliate earn interest on Advertiser funds to be used for Third Party Costs, Agency shall return the amount of the interest based on the average prime rate (but no more than actually received by Agency or Agency Affiliates).
- 6.2 Agency will notify Advertiser in writing at each instance if a recommended Media Owner or Vendor is also an Agency Affiliate or Related Party and obtain Advertiser's prior written approval, on a case-by-case basis, before commissioning services from any such Agency Affiliate or Related Party.
- 6.3 Agency will not (and will ensure that Agency Affiliates do not) enter into any arrangements (whether directly or indirectly) which would or could lead to any Conflicts of Interest this includes any consulting, research or other services agreement between Agency or an Agency Affiliate and a Media Owner or Media Owner Group Member or Vendor, unless Advertiser has authorized such arrangement and is satisfied that such arrangement does not pose a Conflict of Interest. Agency and Agency Affiliates shall disclose in writing any and all actual or potential Conflicts of Interest.
- 6.4 For each recommended Media Plan, a senior-level Agency Associate shall certify that the plan is free of undisclosed Conflicts of Interest.
- 6.5 Agency will not (and will ensure that Agency Affiliates and Associates do not) enter into any agreement or other arrangement (whether directly or indirectly) with a Media Owner Group Member or Vendor, which restricts or prevents Agency from fully complying with the terms of this Agreement, including in relation to the provision of Records.
- 6.6 Agency will purchase Media Placements in accordance with the Media Plans or other authorization policy that may from time to time be provided by Advertiser with notice to Agency.
- 6.7 Agency will use commercially reasonable efforts and skill in the selection and appointment of Media Owner Group Members and Vendors to optimize Advertiser's return on investment in the Media Placements and to reach the optimal objectives and desired consumer demographic and psychographic profiles of Advertiser with Media Placements.
- 6.8 Agency and Agency Affiliates must disclose to Advertiser their policy regarding gifts to employees from Media Owner Group Members or Vendors, including but not limited to cash, rebates or gifts and shall describe in writing how Agency and Agency Affiliates enforce and ensure compliance with such policy. Agency and Agency Affiliates will provide Advertiser with updates to the policy (if any) on an on-going basis.
- 6.9 Upon Advertiser request, Agency will obtain quotes from multiple Media Owners and Vendors for the provision of time, space, goods or services and discuss such quotes with Advertiser before placing an order from such parties.

- 6.10 Unless expressly agreed in writing otherwise, Agency will at all times act as a fiduciary and in the best interest of Advertiser.
- 6.11 Agency will at all times act in the best interests of Advertiser when negotiating and entering into Third Party Contracts for Advertiser. Agency will use commercially reasonable efforts to ensure that Third Party Contracts provide for terms that are consistent with, or more favorable than, the terms of this Agreement. Further, Agency shall use commercially reasonable efforts to verify that all amounts billed by Media Owner Group Members reflect those amounts agreed upon and that such billed amounts are for services actually provided under the applicable Third-Party Contract and shall promptly seek makegoods, refunds or credits (as applicable) where invoices do not match the services delivered.
- 6.12 Advertiser's spending for Media Placements may not contribute to Rebates and Incentives from Media Owner Group Members or Vendors without authorization from an Authorized Advertiser Approver receiving the Rebates and Incentives.
- 6.13 Agency will, to the extent applicable, require compliance by Media Owner Group Members with the Internet Advertising Bureau (IAB) Standard Terms and Conditions for Internet Advertising v.3.0 (or such other relevant terms and conditions provided by Advertiser), all Applicable Laws (including Applicable Laws with respect to cookies, self-regulatory guidelines, industry standards and best practices, such as MRC 3MS Standards). However, Advertiser acknowledges that certain Media Owners and social media platforms, may not agree to industry standard terms or Advertiser's promotional guidelines. In the event that a Media Owner or social media platform does not agree to Advertiser's promotional guidelines and/or the applicable terms herein, Agency will notify Advertiser of such disagreement. Advertiser will solely determine whether and, if applicable, how Agency will proceed with that Media Owner or social media platform.
- 6.14 Agency will use commercially reasonable efforts to ensure that all purchases made hereunder by Agency or an Agency Affiliate are made under the principle of sequential liability where Agency will be held liable for payments to Media Owners and other Vendors only to the extent Agency has been paid by Advertiser for such purchases. For amounts owing but not paid to Agency, Advertiser will be held solely liable. Whenever a Media Owner or Vendor refuses to agree to sequential liability, Agency will inform Advertiser in writing.
- 6.15 Agency will use available industry systems, technology and proprietary tools which provide proof of appearance of Media Placements as designed to demonstrate placement compliance with the insertion order, industry best practices, and Advertiser guidelines.
- 6.16 Agency will notify Advertiser in writing promptly if it becomes aware that any Media Owner Group Member or Vendor is, or is likely to, prevent from being published or aired or become unable, for any reason, to publish or air any Media Placement which has been purchased by or on behalf of Agency for Advertiser.
- 6.17 Without limiting any other provision of this Agreement, Agency shall operate on a fully transparent basis when offering and delivering Digital Media Placements, including, through Programmatic Media, in accordance with the transparency principles set forth in this Agreement which apply to all Services provided to Advertiser. Agency shall, upon request by Advertiser and/or Advertiser's auditor at any time, provide the requesting parties (whether Advertiser and/or Advertiser's auditor) with read only access to media buying platforms used in the purchase of Media Placements,

including, but not limited to, access to Transaction Data. Agency shall agree with Advertiser regarding all fees and costs associated with delivering Digital Media Placements.

- 6.18 When and where applicable, Agency shall ensure that contracts with digital Media Owners or Vendors leveraged in the process of purchasing digital Media on behalf of Advertiser provide that the digital Media Owner or Vendor shall:
- 6.18.1 provide Agency and Advertiser with access to Transaction Data associated with Advertisers' Media Placements on a real-time basis, but no less than two (2) business days after the applicable Media Placement was delivered;
 - 6.18.2 clearly label and provide a definition of all data fields and attributes in the Transaction Data and communicate any changes to the fields to Advertiser and Agency in writing;
 - 6.18.3 attest in writing, upon request of the Advertiser or Agency, that the Transaction Data provided is accurate and has not been manipulated in any manner;
 - 6.18.4 silo Transaction Data for Advertiser from that of other advertisers;
 - 6.18.5 retain Transaction Data for three (3) Years.
- 6.19 Agency (and where appropriate Agency Affiliate) shall comply (and shall cause Agency Affiliates to comply) (through technology approved and paid for by Advertiser) with Advertiser's requirements as issued to Agency from time to time in writing with respect to the nature and quality of digital Media being purchased, including, but not limited to, compliance with Advertiser's optimization and trading controls including tolerance of bid prices, floor prices, buying strategy on open marketplace and private market place deals, strategy budgets and campaign budgets including all standard campaign management controls in order to avoid unwarranted trading. In the absence of Advertiser's optimization and trading controls, Agency shall, upon request, outline Agency's optimization and trading controls to Advertiser and receive written approvals from Advertiser prior to any trading activity commencing.
- 6.20 Agency shall fully disclose through periodic discussions with Advertiser, all Advertiser-specific and industry general learnings derived from the handling by Agency or any Agency Affiliates providing any services, directly or indirectly, for Advertiser's accounts. Agency shall actively make "best industry practice" recommendations to Advertiser from time to time regarding industry general learnings. In the event that any industry standards are adopted during the Term that improve the transparency of Media Placement transactions, reduce fraud, improve viewability or otherwise improve Media Placement operations, Agency agrees to discuss these standards with Advertiser promptly after Advertiser's request therefore so that the Parties can consider and, upon mutual written agreement, implement such standards.
- 6.21 Agency and Advertiser will mutually agree to the maximum Principal or Inventory Mark-Up amount to be made by the third party selling the applicable Media to Advertiser for any agreed upon Principal or Inventory Sale. Agency will provide Advertiser with proof and certification that any Media Placements through a Principal or Inventory Sale were legitimately sourced and the favorable terms received on the underlying Media in a Principal or Inventory Sale by Agency or the applicable third party (which may be an Agency Affiliate), directly or indirectly, were not in whole or in part on account of Advertiser's spending with the applicable Media Owner or other Vendor.

6.22 Without the written consent of an Authorized Advertiser Approver, Agency will at no time agree to Dual Rate Cards.

6.23 Agency will provide ongoing training to Agency Associates who work on Advertiser's behalf on Agency's obligations as an agent and/or principal for Advertiser and Agency's ethical, contractual and confidentiality obligations hereunder.

7. **Content Verification, Brand Safety and Standards**

7.1 At Advertiser's request, Agency will provide Advertiser with a list of URLs (including web pages) and other Media that Agency considers safe and protective of Advertiser's brand so that Advertiser can create its own Advertiser Whitelist to be used as a guide for Media Placements.

7.2 Unless otherwise agreed to in writing by Advertiser, Agency will, when applicable, use commercially reasonable efforts to ensure that Media Placements will appear solely on websites on the Advertiser Whitelist. Advertiser will have the right to amend the Advertiser Whitelist on three (3) Business Days' notice to Agency.

7.3 Agency will implement the Blacklist and Agency will not, without the prior written consent of Advertiser, place Media Placements on websites and/or mobile applications (including insertion orders based on non-Programmatic Media buys, unless expressly agreed to by the Parties) that it should reasonably be aware are, contain or link to the following content ("**Blacklist Content**"):

7.3.1 obscene, indecent or pornographic content (including child pornography);

7.3.2 content that is hateful, threatening, harassing or abusive;

7.3.3 violent content;

7.3.4 content liable to incite racial hatred or other forms of unlawful discrimination;

7.3.5 content liable to incite acts of terrorism;

7.3.6 content containing excessive profanity;

7.3.7 content relating to illegal drugs or drug paraphernalia;

7.3.8 content relating to the sale of firearms, ammunition or other weapons;

7.3.9 content that is defamatory or trade libelous;

7.3.10 content relating to the sale or promotion of counterfeit goods;

7.3.11 content that infringes any third party's Intellectual Property Rights, other proprietary rights or rights of publicity or privacy;

7.3.12 content that contains viruses, Trojan horses, worms, time bombs, cancel bots or other computer programming routines that are intended to damage, surreptitiously intercept, detrimentally interfere with or expropriate any system, data or personal data;

7.3.13 content that is otherwise harmful, unlawful or illegal;

- 7.3.14 URLs (or web pages) that are fraudulent and/or are used for sourcing Non-Human and Fraudulent Traffic;
- 7.3.15 alcohol-related content;
- 7.3.16 gambling-related content;
- 7.3.17 tobacco-related content;
- 7.3.18 content relating to prescription drugs;
- 7.3.19 blogs or unmoderated forums;
- 7.3.20 fake news/disinformation;
- 7.3.21 content that is unsuitable for minors based on a good faith assessment of prevailing norms in the Territory;
- 7.3.22 content relating to offshore banking;
- 7.3.23 content supporting and/or repudiating radical or extremist political issues (excluding content about such issues when such content is in the form of legitimate news reporting);

and will use appropriate software tools, to verify (as may be limited by technology) that the websites on the Advertiser Whitelist do not contain any Blacklist Content.

- 7.4 In the event that Agency discovers or is notified that a Media Placement has appeared on a website or mobile application that contains or links to Blacklist Content, Agency will immediately notify Advertiser and use commercially reasonable efforts to remove the Media Placement immediately upon discovery or notification. In addition, the Advertiser shall be entitled to require the immediate removal, suspension or cancellation of an entire campaign on that Media Owner's platform without penalty. Notwithstanding the foregoing, Agency will not be in breach of this Section or any other Section in this Agreement if Media Placements are made on Advertiser Whitelist websites and mobile applications featuring Editorial Content about Blacklist Content. Further, Advertiser understands that certain publishers may not pre-screen user-generated content; in the event Advertiser instructs Agency to make Media Placements on such websites, Agency will use commercially reasonable efforts to ensure that Advertiser's Media Placements are promptly removed from such sites containing unacceptable user-generated content in accordance with Advertiser's instructions.
- 7.5 With respect to Digital Media Placements, Agency shall, in conjunction with the Advertiser, conduct quarterly reviews, updates and audits of the Blacklist Content and Advertiser Whitelist against all Digital Media Placements. Advertiser shall be entitled to request for specific websites and mobile applications to be removed/blocked from its Digital Media Placements (provided such notice is given at least 24 hours before activation).
- 7.6 In order to ensure that Media Placements are made in safe environments and associated Media spend is protected from criminal activity, Agency is or shall become within thirty (30) days of execution of this Agreement, registered with the Trustworthy Accountability Group (TAG) and Certified Against Fraud by TAG. Agency will work with Advertiser to identify major downstream

digital Media partners, such as demand-side platforms, ad exchanges, ad networks, supply-side platforms, and Media Owners to ensure such third parties are also protecting Advertiser's Media Placements and Media spend by being registered with TAG and Certified Against Fraud by TAG. Advertiser may work with Agency to expand these protections, including requiring further certifications to limit brand exposure to illicit content, inappropriate adjacencies, and malware that could negatively impact consumers.

- 7.7 Agency will use commercially reasonable efforts to ensure that all third parties to which Media Placements are delivered, displayed or made available have adopted and implemented commercially reasonable Non-Human and Fraudulent Traffic Prevention tactics. Without limiting the foregoing, Agency will use commercially reasonable efforts to implement Non-Human and Fraudulent Traffic Prevention, including without limitation, ensuring Media Owners and Vendors are maintaining best practices for Non-Human and Fraudulent Traffic Prevention and, in collaboration with Advertiser, implementing fraud tools.
- 7.8 Agency will use commercially reasonable efforts to ensure that Advertiser will have no obligation hereunder, for compensation, liability or otherwise in respect of Non-Human and Fraudulent Traffic and will not be billed or required to pay for Non-Human and Fraudulent Traffic. To the extent any payment attributable to Non-Human and Fraudulent Traffic is discovered to have been paid by Advertiser, Agency will, within five (5) days, use commercially reasonable efforts to cause the applicable Media Owner or Vendor to reimburse and refund such payment to Advertiser, together with reasonably adequate documentation to substantiate the accuracy of any such reimbursement or refund.
- 7.9 Agency is aware of IAB Tech Lab initiatives, including without limitation, Ads.txt and Ads.cert, and will only purchase inventory from resellers of inventory that have been identified as legitimate sources via these methods.
- 7.10 Agency will adopt and implement all commercially reasonable technology and methodologies to track and report to Advertiser all Media Placements and the flow of monies between the amount paid by Advertiser for such Media Placements and the monies that are ultimately paid to the Media Owners.
- 7.11 Agency will adopt and implement technology and methodologies (i.e., ad fraud tool(s)) to track and report to Advertiser accurate Media Placements using, where applicable, Accredited Vendors. Except as set forth in this Agreement, Media Placement reporting details should be set forth in the applicable Scope of Work. Advertiser must be made aware of and approve the use of any ad network(s) or ad exchanges before any Media purchases are made by Agency.
- 7.12 Agency will undertake all reasonable efforts to maximize Advertiser's investment in Media Placements by evaluating and limiting the dilution of its investment along the supply line chain by agreement.
- 7.13 With respect to all emails or electronic newsletters sent by Agency on behalf of an Advertiser or by a Media Owner pursuant to a Media Placement which mentions Advertiser in any manner, unless otherwise agreed in writing, Agency agrees that it will be solely responsible for ensuring that the content of such emails complies in all respects with the CAN-SPAM Act.

- 7.14 Notwithstanding any other provision or agreement to the contrary, it is expressly agreed and acknowledged that Advertiser will not be obligated to pay for Media Placements which do not meet the Viewability Standards (where applicable).
- 7.15 Agency will direct Media Owners and Vendors (each as the case may be) to follow any instructions provided by Advertiser in connection with Native Advertising. Such instructions may include ensuring that any such Native Advertising is clearly, conspicuously, and proximately labelled or identified to consumers as sponsored material or advertising copy in accordance with all Applicable Laws.
- 7.16 Agency will disclose in writing all technology employed (for example ad servers) for distribution or storage of Advertiser's Media Placements and related Advertiser Data, together with Agency's commercial rationale and net costs for using such technology. Advertiser has the right to audit and evaluate performance of technology Vendors against Advertiser's requirements to determine effectiveness and objectivity. Advertiser may, in its sole discretion, direct Agency to use specific technology Vendors for the Services provided to Advertiser.

8. Rebates and Incentives

- 8.1 It is the mutual intent of the Parties that all transactions entered into on Advertiser's behalf by Agency and Agency Affiliates, the flow of Advertiser's funds entrusted to Agency, and any Rebates and Incentives received by Agency and Agency Affiliates from third parties, including Media Owner Group Members and Vendors, directly or indirectly, will, as outlined herein, be transparent and fully disclosed to Advertiser.
- 8.2 Agency and Agency Affiliates will at no time, without disclosure to or other agreement by Advertiser, receive or retain, either inside the United States or outside the United States, any Rebates and Incentives or other benefits of any value from third parties, including Media Owner Group Members and Vendors, as a direct or indirect result of Advertiser's spending under this Agreement.
- 8.3 Except to the extent prohibited by any mandatory laws in the Territory prohibiting the passing on of Rebates and Incentives to Advertiser, Agency must provide Advertiser on a quarterly basis (during the Term and for twelve (12) months thereafter) with a full and accurate report of:
 - 8.3.1 each and every rate card and terms of payment offered to Agency or Agency Affiliates in the ordinary course of business between the Agency or Agency Affiliates (before any Rebates and Incentives have been applied) and a Media Owner Group Member for any Media Placements made by Agency or Agency Affiliates on behalf of Advertiser; the gross amounts of Rebates and Incentives Agency directly or indirectly, receives or is entitled to receive in sufficient detail to permit an accurate assessment by Advertiser of the Rebates and Incentives due to Advertiser;
 - 8.3.2 any actions by Advertiser, Agency or Agency Affiliates that are required in order for the Rebates and Incentives to accrue; and
 - 8.3.3 any early payment discounts received by or eligible to be received by Agency or Agency Affiliates from a Media Owner Group Member or Vendor on account of Advertiser Media Placements. Advertiser is entitled to receive any early payment discounts received by Agency or Agency Affiliate on account of Advertiser's Media Placements, unless Advertiser expressly chooses not to receive such discounts or Agency notifies Advertiser with

reasonable advanced notice of the deadline to qualify for such early payment discounts and Advertiser fails to pay Agency for such Media Placement within the qualification period to receive such discounts.

- 8.4 Agency must provide to Advertiser in writing the amount of all of the Rebates and Incentives received by Agency or Agency Affiliate from third parties, including Media Owner Group Members and Vendors, in respect of Advertiser, whether such Rebates and Incentives are reflected in the amount invoiced by the Media Owner or subsequently provided (even after the expiration of the Term) to any Agency Affiliate. Such information will indicate, in the event Agency or an Agency Affiliate aggregates Advertiser's spending with other Agency or Agency Affiliate advertisers, the amount of such Rebates and Incentives allocated to Advertiser and the basis upon which such allocation is made to ensure that any such allocation is compliant with the formula provided in Section 1.82.
- 8.5 It is of the essence to this Agreement that Advertiser receives the Rebates and Incentives in the same form as they are received by Agency (or Agency Affiliate) but, to the extent permitted by the Media Owner or Vendor, Advertiser will inform Agency as to how it wishes the Rebates and Incentives to be passed back (such as by way of credit note issued against old invoices, credit note against future Media Placements, or invoiced for payment by Agency). Where Rebates and Incentives are to be paid back to Advertiser, Agency will pay such sums to Advertiser within thirty (30) days of receipt of the same by Agency or Agency Affiliate. Where Rebates and Incentives are free or discounted inventory, Agency shall provide written details to Advertiser of such inventory and timing for when such inventory must be used.
- 8.6 Agency will take all commercially reasonable steps to pursue third parties, including Media Owner Group Members and Vendors, for any Rebates and Incentives.
- 8.7 Agency will keep Advertiser fully informed of any relevant discounted Media space available to Advertiser on account of Agency's dealings with Media Owner Group Members together with any dates by which such discounted Media space must be used by Advertiser in order to take advantage of the discount (and for the avoidance of doubt such discounted Media space will be included in the definition of Rebates and Incentives for the purpose of this Agreement whether directly or indirectly related to Advertiser's Media Placements).
- 8.8 The Parties agree to enter into a separate written agreement to the extent that any use of Barter services (either by bartering Advertiser goods or services or selling Bartered goods or services to Advertiser) are provided by Agency or Agency Affiliates.

9. Unbilled Media

- 9.1 Agency will calculate and report to Advertiser any Unbilled Media arising on an annual basis (by no later than thirty (30) days after the end of each Year related to Unbilled Media arising in the previous Year). Unless otherwise agreed by Advertiser, Agency will pay back such Unbilled Media to Advertiser by no later than sixty (60) days from the end of each Year.
- 9.2 Where Agency passes back monies for Unbilled Media to Advertiser and Agency subsequently receives (within a period of twelve (12) months from the date the monies for Unbilled Media was passed back to Advertiser) a valid Media Placement invoice from the Media Owner relating to the value of the Media Placement which has been passed back to Advertiser as Unbilled Media,

Advertiser shall, upon receipt of Media Owner's invoice from Agency, repay the same to Agency on the payment terms set out in this Agreement.

10. Relationship; Exclusivity

10.1 Prior to providing any Services to Advertiser, Agency will inform Advertiser in writing of the existence of any contracts or business relationships that Agency and/or Agency Affiliates have with companies manufacturing, distributing or selling Competing or Antithetical Products or Services. For the Term of this Agreement, Agency will not accept new assignments from any Person that markets or sells Competing or Antithetical Products or Services.

10.2 Agency and its Restricted Staff (while employed by or under the direction of Agency) will not, during the Term and for twelve (12) months after (with respect to Restrict Staff, such timing shall extend twelve (12) months after each such individual ceases providing services to Advertiser), without the prior written consent of Advertiser, provide services to any Competing or Antithetical Products or Services. Agency will ensure that there is no overlap of teams or Associates with any existing Agency client that markets or sells Competing or Antithetical Products or Services and will take reasonable steps to ensure the confidentiality of Advertiser's information including, restricting access to systems and erecting a "virtual wall" so that none of the Restricted Staff working on Advertiser's business shares any information with people working on Competing or Antithetical Products or Services.

11. Associates

11.1 Agency will allocate suitable Associates with appropriate levels of experience and seniority to provide the Services. The composition of Agency's team assigned to Advertiser and the allocation of their work time will comply with the specifications set forth in the relevant Scopes of Work. Notwithstanding the foregoing, Advertiser acknowledges and agrees that it may be necessary for Agency to replace Associates providing the Services with alternative Associates with similar levels of seniority and experience.

11.2 Agency will appoint Key Individuals to be actively involved in the provision of the Services. Advertiser will approve all such Key Individuals. Should any Key Individual leave the Agency or cease to be involved in the provision of Services for any reason (including, by way of example, because the Key Individual is promoted to a different role within the Agency), Agency will consult with Advertiser and, subject to Advertiser's prior written approval, appoint a suitable replacement. Any such change in the Key Individuals will occur with full and timely transfer of know-how at Agency's sole expense.

11.3 Should Agency fail to provide at least the staffing mutually agreed upon by Advertiser and Agency during the term of the applicable Scope of Work, Advertiser will have the right, in addition to any other right set forth herein, to prospectively renegotiate Agency Fees in light of any staffing deficiency.

12. Scope of Work Amendments and Project Cancellations

12.1 Subject to Sections 12.2 and 25.3, Advertiser may request Agency to cancel, suspend or amend any Project or part thereof, including any plans, schedules or work in progress in respect of any Project. Agency will take all reasonable steps to comply with any such request provided that Agency is able to do so within its contractual obligations to Vendors. For the avoidance of doubt,

any cancellation or termination of the Annual Scope of Work will be subject to Advertiser giving notice to Agency, in accordance with Section 25.1.

- 12.2 In the event of any such cancellation, suspension or amendment, Advertiser will reimburse Agency for all Fees up to the date of cancellation, suspension or amendment, together with any Third Party Costs or other Expenses incurred by Agency or to which Agency is committed as well as any charges or other costs imposed on Agency by third parties (including Media Owners) arising from the cancellation, suspension or amendment provided that Agency will use commercially reasonable efforts to mitigate any such Third Party Costs or Expenses wherever possible.

13. Approvals and Authority

- 13.1 This Agreement takes precedence over any other agreements relating to the same subject matter entered into by the Parties and cannot be superseded without authorization by the signatories to this Agreement or such other person(s) authorized in writing by Advertiser President, Chief Financial Officer, Chief Marketing Officer or General Counsel.

- 13.2 For the purposes of this Agreement, any reference to "approval" to be given by Advertiser will mean Advertiser giving approval by one of the following methods:

13.2.1 Advertiser issuing a written confirmation of such approval by way of purchase order or otherwise bearing the Signature of an Authorized Advertiser Approver;

13.2.2 e-mail from the individual business e-mail address of an Authorized Advertiser Approver;
or

13.2.3 the Signature of an Authorized Advertiser Approver(s) on Agency's documentation.

- 13.3 For the purposes of this Agreement, any reference to "approval" to be given by Agency will mean Agency giving approval by one of the following methods:

13.3.1 e-mail from the individual business e-mail address of an Authorized Agency Approver; or

13.3.2 the Signature of an Authorized Agency Approver on Advertiser's documentation.

- 13.4 If a Party is requested to give approval under this Agreement or in connection with it (or disapproval where Advertiser has such right), such approval (or disapproval) will not be unreasonably withheld or delayed.

- 13.5 Without limiting Advertiser's rights of approval provided elsewhere in this Agreement, Agency will seek Advertiser's prior approval of:

13.5.1 any estimates or quotations for any Third-Party Costs to be paid by Advertiser;

13.5.2 any Media Plans;

13.5.3 any Media Placements;

13.5.4 any Key Performance Indicators; and

13.5.5 any Goals.

Advertiser's approval of such estimates will be Agency's authority to enter into contracts with relevant third parties, subject to the terms and conditions of this Agreement.

- 13.6 With respect to approvals for Media Placements, Agency acknowledges and agrees that Media Placements must be executed only in accordance with Advertiser's approval, it being understood that Advertiser will not be responsible for payment in connection with any Media purchase outside the scope of an approved Media Placement.

14. Relationship Management and Contact Reports

- 14.1 During the Term, Agency will keep Advertiser fully informed as to the progress and status of all Services. Agency will prepare and submit written reports at such intervals and in such format as is agreed by the Parties and will promptly inform Advertiser of any actual or anticipated problems relating to delivery of the Services.
- 14.2 During the Term, the Parties will arrange and attend meetings to review the status and progress of the Services and the Project(s), and to seek to resolve any issues that have arisen. Such meetings will be held at such locations and at such intervals as will be agreed by the Parties.

15. Reporting

- 15.1 Agency will provide to Advertiser, Advertiser Data and Change History, in addition to any other reports specified in a Scope of Work or elsewhere in this Agreement. Such reporting and data will be supplied in relation to all of the Services which have been provided, at a frequency and in a form and format acceptable to Advertiser. The reporting and data that will be supplied by Agency include, but may not be limited to, the following: pre- and post-spend by all Media channels, annual projections (gross and net), and:

Report Type	Frequency
Billing by medium report for current 12 months (forecast/reforecast)	Monthly
Flowcharts: combined, dive, romance, digital	Ongoing
Detailed timeline document with key dates for every deliverable	Ongoing
Advertorial due dates	Ongoing
Added value spreadsheet	Annually; update as needed
TV gross & net values (pre & post)	Annually; update as needed
Ratebase & circ	Annually
Spend by creative in gross & net value	After each flight

Digital Media Performance	Monthly
Programmatic media Performance	On-Demand. Pulled within 48 hours of request.
Report on amounts billed by media type	Monthly
Billing information exchange / true-up meeting (discuss YTD amounts ordered and billed)	Quarterly; at minimum

- 15.2 Agency shall provide Advertiser with full access to (or, in the event a third party agreement includes restrictions, password(s) for read only access to) reports on a quarterly basis regarding the Advertiser's Digital Media Placements including data on the websites and mobile applications blocked, any infringement of the Blacklist Content using the ad fraud tools and any other applicable engagement metrics agreed between the Parties in relation to each Digital Media Placement. Where available, the reports shall also include details of any brand safety issues and ad collision in relation to each Digital Media Placement.
- 15.3 Agency shall provide standardized metrics/KPIs for reporting the percentage of Advertiser's spend paid to each Media Owner on a quarterly basis.
- 15.4 Advertiser will be provided with (i) full access to Advertiser Data and Change History and (ii) online access to relevant parts of Agency's systems where Advertiser will be able to review (and download/export if it so desires) the following information regarding the Services: third party technologies, including technologies used in programmatic or real time buying, which enable the purchase of programmatically traded media and data, including but not limited to agency trading desks and demand-side platforms. Agency will provide appropriate training to Advertiser's staff and a reasonable level of ongoing technical support. All information provided will be classed as Confidential Information of Advertiser.

Within one hundred and twenty (120) days after the close of the Holding Company's fiscal year, Agency shall provide Advertiser reports on all revenues and profits generated by Agency Affiliates on Advertiser-related billings, including without limitation, those revenues and profits generated by the Agency and Agency Affiliates, detailed by Affiliate.

- 15.5 In relation to any Digital Media Placements carried out by or on behalf of Agency, Agency shall retain for at least thirty-six (36) months all Transaction Data it receives. Where retention of such Transaction Data is cost prohibitive for Agency, it shall notify Advertiser and Agency shall make an arrangement for a periodic data dump with Client to securely store all applicable Transaction Data.
- 15.6 In the event of any acquisition of Agency by a holding company as described herein at Section 2.8, no later than thirty (30) days after the end of each Year, the Holding Company Chief Financial Officer shall provide to Advertiser's Chief Financial Officer an Annual Financial Compliance Certification.

16. Fees, Expenses and Invoicing

- 16.1 The Fees, Expenses and Third Party Costs will be invoiced by Agency in accordance with the payment terms set out in the applicable Scope of Work and will be payable (subject to Section 17.5) within 60 days of the date of the relevant invoice, or such other reasonable period as the Parties may agree in the applicable Scope of Work. Agency shall provide Advertiser with a copy of all invoices sent to Advertiser upon Advertiser's written request. Agency acknowledges and agrees that Advertiser will not be responsible for payments in connection with any Media Placements that are not (i) expressly set forth in the applicable insertion order, (ii) approved by Advertiser in writing if not in a specific insertion order, or (iii) included in a Media Owner's invoice to Agency.
- 16.2 Where a Project is agreed in addition to the Annual Scope of Work, notwithstanding any other provision of this Agreement, Advertiser will not be obliged to pay Fees relating to that Project and Agency will not be obliged to supply any Services for a Project until each Party has signed the applicable Project Scope of Work.
- 16.3 Agency acknowledges and agrees to participate in Advertiser's government-mandated review process ("**Annual Review**"). During each Annual Review, the Parties will commence negotiations in good faith from July through August of each subsequent Year of the Term to agree to a new Annual Scope of Work for the next Year of the Term of this Agreement. If the Parties fail to reach agreement before the start of that Year, Advertiser will have the option of rolling forward the Scope of Work for the previous Year without any increase whatsoever in the applicable Fees.
- 16.4 All sums stated in this Agreement or in any Scope of Work, quotation or estimate exclude VAT and any other applicable sales tax (unless otherwise stated) which will also be payable by Advertiser at the rate prevailing from time to time. Advertiser will not be responsible for the payment of any income, franchise, gross receipts or personal property tax paid by Agency as a result of the Services or this Agreement. Agency will be responsible for any penalties or interest attributable to its failure to remit to a governmental authority any taxes owing on its professional service Fees unless Agency had properly invoiced Advertiser for such taxes and Advertiser did not timely pay the invoiced amount of such taxes to Agency as required by this Agreement. Agency will cooperate with Advertiser to lawfully minimize or obtain refunds of any taxes available to Advertiser. Agency will notify Advertiser if it is aware Advertiser could obtain refunds of taxes paid.
- 16.5 Unless otherwise agreed in writing, the Fees are inclusive of any costs payable in respect of the Services in relation to Agency tools and systems. The Fees do not cover the performance of services which are outside of a Scope of Work nor do they cover the performance of services outside the Territory. If any such services are required, the terms relating to their provision together with the applicable fees will be agreed in writing by the Parties.
- 16.6 Advertiser reserves the right to withhold payment of any invoice or part of an invoice where Advertiser has a bona fide reason to challenge the validity or accuracy of such invoice. On receipt of any such invoice Advertiser will:
- 16.6.1 within ten (10) Business Days of discovery of the inaccuracy or disputed amounts, notify Agency in writing of the reason for such withholding;
- 16.6.2 pay the undisputed part of such invoice in accordance with Section 16.1; and

- 16.6.3 work promptly and in good faith with Agency to resolve any such dispute over the relevant invoice.
- 16.7 Where a late fee or other surcharge is invoiced by a Media Owner or Vendor against Agency due to a late payment and such late payment results from late payment by Advertiser with respect to the time, space, goods or services specified in the Media Owner or Vendor's invoice, Advertiser will reimburse to Agency within sixty (60) days of a receipt of an invoice from Agency for the amount of such surcharge together with appropriate documentary evidence of such charge, together with any accrued interest charged by the Media Owner or Vendor in respect of the overdue amount.
- 16.8 Agency will be liable for any late advertising materials charge made by a Media Owner against Agency due to advertising materials being delivered late unless due to Advertiser's own negligent or willful act or omission, in which case Advertiser will reimburse Agency within sixty (60) days of a receipt of an invoice from Agency for the amount of such late advertising materials charge together with appropriate documentary evidence of such charge.
- 17. Third Party Costs**
- 17.1 All Third-Party Costs will be approved by Advertiser in advance in writing, including the cost of Media Placements.
- 17.2 Unless otherwise approved by Advertiser, or set out in a Scope of Work, all Third-Party Costs will be charged to Advertiser at net cost paid by Agency or its Affiliates without any mark up and with full credit to Advertiser for all Rebates and Incentives obtained by Agency or any Agency Affiliate. Agency will use its best efforts to minimize Third Party Costs and, unless otherwise agreed upon by the Parties in writing, will use a three-bid process acceptable to Advertiser when selecting subcontractors and Vendors.
- 17.3 Agency will advise Advertiser promptly of any changes in estimated Third Party Costs. Subject to Section 17.4, if the sum paid or owing by Agency in respect of Third Party Costs in a particular instance is greater than the relevant sum approved by Advertiser, the amount of the difference will be disclosed and, unless agreed to in writing by an Authorized Advertiser Approver, such additional costs will be borne by Agency.
- 17.4 The actual cost to Agency of Third-Party Costs in respect of materials or services purchased overseas for the Deliverables may be more or less than the cost anticipated at the date when Agency ordered the relevant materials or services (or obtained Advertiser's approval for such Third-Party Costs) as a result of fluctuations in the rate of currency exchange. If so, Agency will charge Advertiser at the rate of currency exchange in operation on the date Agency pays for the relevant Third Party Costs, which will be deemed to be the closing mid-point rate in the United States for that day as subsequently quoted in the next published edition of The Wall Street Journal or such other quotation source as the Parties may agree upon.
- 17.5 Upon request, Agency will disclose to Advertiser a summary of all payment terms for Third Party Costs as negotiated and committed to with the relevant third party and will supply Advertiser with copies of Third-Party Contracts solely relating to the Services. Agency will notify Advertiser in writing as soon as reasonably practicable in the event a Media Owner or Vendor requires payment in advance or sooner than the payment terms set out in Section 16.1.

18. Audit and Access to Records

- 18.1 Advertiser will be entitled to choose any Auditor(s) (including an external third party Auditor or industry specialist and/or an internal Advertiser team) to: (i) audit the performance of the Services and Agency's compliance with this Agreement; and (ii) audit and benchmark Media Placements pursuant to criteria determined by Advertiser, including quality and cost, in Advertiser's absolute discretion. Advertiser will be entitled to determine the scope of any and all audits in accordance with the terms of this agreement for purposes of confirming the foregoing.
- 18.1 During the Term and for six (6) Years after its termination, Agency will maintain clear, accurate, complete and up-to-date Records in respect of the performance of its and its Agency Affiliates' obligations under this Agreement, and such Records will be kept in accordance with GAAP consistently applied and, in such manner, as may be readily audited. Agency will procure compliance by Agency Affiliates with its obligation to maintain Records as set out in this Agreement, including, but not limited to, access to all Advertiser Data and Change History.
- 18.2 Agency will obtain at its own cost all necessary rights in Records with respect to all services or products which Agency or Agency Affiliates obtain from third parties to enable Agency to supply to Advertiser and its Auditor all such data as the Auditor reasonably requires to fully perform an audit hereunder, including with respect to the principle of full transparency in the flow of Advertiser's payments to Agency and any Rebates and Incentives received by Agency or Agency Affiliates and access to Rebates and Incentive agreements, if any, between Agency or Agency Affiliates and Media Owner Group Members or Vendors to confirm whether such agreements relate at all to time, space, goods or services provided to Advertiser.
- 18.3 Except to the extent that any Records relate exclusively to Agency's Confidential Information or Agency's other Agency advertisers and do not in any manner, directly or indirectly, relate at all to Advertiser, all rights in the Records (including Intellectual Property Rights and any data and information created, obtained, compiled or verified by Agency, including prices paid for Media Placements by Agency or Agency Affiliates, directly or indirectly, on behalf of Advertiser) will belong to Advertiser, will constitute Confidential Information of Advertiser and will be deemed to be assigned to Advertiser under Section 24.1 for the purpose of this Agreement;
- 18.4 Agency and Agency Affiliates will allow the Auditor access to all Records, including all documents and information to verify Principal or Inventory Mark-Ups and contracts and invoices for Advertiser's Media Placements (provided that Agency or Agency Affiliates may redact from Third Party Contracts the individual names and information of other advertisers). Any such access will be at any time during normal business hours, upon seven (7) days' notice, for the purposes of auditing or otherwise inspecting the Records. Agency and Agency Affiliates will provide all Records and data in a format reasonably requested by the Auditor(s).
- 18.5 Should any audit or inspection of the Records by Advertiser and/or Auditor reveal that Advertiser has been overcharged, Agency will reimburse to Advertiser:
- 18.5.1 the amount of the overcharge, plus interest at the rate of not less than 5% up to the maximum amount allowable by law calculated from the date at which benefits were received by Agency but not passed through to Advertiser or the date of payment (as applicable), within seven (7) days, provided that Agency has invoiced Client pursuant to the terms of this Agreement; and

- 18.5.2 the third party costs charged by the Auditor, investigator, or legal counsel in respect of the audit, if such overcharge relates to the Fees and is more than 3% of the Fees for the Year audited; if such overcharge relates to Media Placement costs and is more than 3% of the Media Placement spending for the Year audited; or if such overcharge relates to any other Third Party Costs, and is more than 3% of the Third Party Costs (excluding Media Placements) spending for the Year audited.
- 18.6 Agency and Agency Affiliates will afford the Auditor all reasonable assistance in the performance of the audit. Advertiser shall require the Auditor to sign a confidentiality agreement, in the form attached at Schedule 7 before the Agency provides the Auditor with any access to the Records. Agency shall have the right to review and comment on the Auditor's findings and report prior to finalization. Advertiser will direct its Auditor to include Agency's comments verbatim in any final report issued to Advertiser, where a copy shall be contemporaneously delivered by Auditor to Agency. The Auditor may, upon Advertiser's request, deliver a copy of its preliminary observations to Agency to provide Agency with an opportunity to comment on any inconsistencies or inaccuracies (it being understood that such preliminary observations reported by Auditor shall be used by Agency solely for the purpose of client management). Agency shall submit its comments back to the Auditor within five (5) Business Days of receipt of the Auditor's observations. Agency acknowledges that when submitting its final report to the Advertiser, the Auditor will also provide Advertiser with a summary of any amendments made to the report as a consequence of Agency's comments.
- 18.7 Advertiser and the Auditor will ensure that any information obtained in the course of the audit is kept in the strictest confidence. Advertiser will not employ an Auditor on a contingency basis. The report and results of any audit shall be considered Confidential Information and Advertiser, Agency and Agency Affiliates shall protect such information in accordance with Section 19 and the terms of this Agreement and shall not at any time use such information for benchmarking purposes or for negotiations with Media Owner Group Members or Vendors.

19. Confidentiality

- 19.1 Each Party acknowledges that, whether by virtue of and in the course of this Agreement or otherwise, it may receive or otherwise become aware of Confidential Information belonging to the other Party.
- 19.2 Confidential Information will include any document marked "Confidential", or any information which the receiving Party has been informed is confidential or which it ought reasonably to expect the disclosing Party would regard as confidential.
- 19.3 Confidential Information will exclude information which:
- 19.3.1 at the time of receipt by the receiving Party is in the public domain;
 - 19.3.2 subsequently comes into the public domain through no fault of the receiving Party or its Associates;
 - 19.3.3 is lawfully received by the receiving Party from a third party on an unrestricted basis; and/or
 - 19.3.4 can be demonstrated to have already been known to the receiving Party before receipt hereunder.

- 19.4 Each Party undertakes to maintain the confidentiality of the other Party's Confidential Information at all times and to use no less adequate measures than it uses in respect of its own Confidential Information to keep the other Party's Confidential Information reasonably secure. Without limiting the generality of the foregoing, each Party will institute, implement and maintain at all times during the Term appropriate information security measures designed to: (i) help ensure the security and confidentiality of the other Party's Confidential Information, (ii) reduce the risk of reproduction, misuse, or modification of the other Party's Confidential Information (including, but not limited to, consumer data and cookies), (iii) identify potential threats or hazards to the security or integrity of the other Party's Confidential Information and help protect against any anticipated threats or hazards, and (iv) help protect against unauthorized access to or use of the other Party's Confidential Information.
- 19.5 Neither Party will at any time, whether during the Term or at any time thereafter, without the prior written approval of the other Party, use, disclose, exploit, copy or modify any of the other Party's Confidential Information (including, without limitation, Media audit reports), or authorize or permit any third party to do the same, other than for the sole purpose of the exercise of its rights and/or the performance of its obligations in connection with this Agreement.
- 19.6 Agency undertakes to disclose Advertiser's Confidential Information only to those of its Associates to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under this Agreement.
- 19.7 Neither Party will be in breach of this Section 19 if it discloses the other Party's Confidential Information in circumstances where such disclosure is required by law, regulation or order of a competent authority, provided that the owner of the Confidential Information is given reasonable advance notice of the intended disclosure and a reasonable opportunity to challenge the same.
- 19.8 Neither Party will be held criminally or civilly liable under any federal or state trade secret law for the disclosure of the other Party's Confidential Information related to such Party's trade secrets that is made in confidence to a federal, state or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of the law. Nor shall either Party be held criminally or civilly liable under any federal or state trade secret law for the disclosure of the other Party's Confidential Information related to such Party's trade secrets made in a complaint or other document filed in a lawsuit or similar proceeding, if such filing is made under seal. If a Party files a lawsuit for retaliation by the other Party for reporting a suspected violation of the law, the filing Party may disclose Confidential Information related to the other Party's trade secrets to the filing Party's attorney, and use that information in the court proceeding; provided, that the Party that files any document containing the other Party's Confidential Information related to such Party's trade secrets under seal and does not otherwise disclose the other Party's Confidential Information related to trade secrets, except pursuant to a court order.
- 19.9 Each Party acknowledges that money damages may not be sufficient remedy for any prohibited or unauthorized disclosure or use of Confidential Information of the other Party and that the other Party will be entitled, in addition to any other remedies available at law or otherwise, to an order of specific performance or other equitable relief against the breaching Party, without needing to post bond or other surety.

20. Agency Representations and Warranties

Agency represents and warrants that:

- 20.1 it has full power and authority to enter into this Agreement and that by doing so it will not be in breach of any obligation to a third party;
- 20.2 any Associate, Media Owner, Media Owner Group Member, Agency Affiliate or Vendor that Agency uses to perform the Services is and will be competent and suitable, whether as to qualifications, experience or otherwise, to provide the Services; and
- 20.3 it will comply with all Applicable Laws in connection with its performance under this Agreement.

21. Advertiser Representations and Warranties

Advertiser represents and warrants that:

- 21.1 it has full power and authority to enter into this Agreement and that by doing so it will not be in breach of any obligation to a third party;
- 21.2 to the best of its knowledge, Advertiser Materials will not, when used in accordance with this Agreement and any written instructions given by Advertiser, infringe third party copyright; and
- 21.3 to the best of its knowledge and belief, Advertiser Materials will comply with all Applicable Laws.
- 21.4 Advertiser has all necessary rights, permissions and, where applicable, legal bases to collect and provide any first party PII and other data to the Agency and/or applicable third parties and to permit such party to process and use such data as agreed on Advertiser's behalf; and
- 21.5 Advertiser has all necessary rights and permissions in respect of any third party PII and other data that it provides to the Agency and/or applicable third parties, to permit such party to process and use such data on Advertiser's behalf.

22. Indemnification; Limitation of Liability

- 22.1 Agency will defend Advertiser Indemnitees from and against any and all Claims which any of them may suffer, incur, or which may be asserted against any of them, in whole or in part, to the extent by reason of, or to the extent in connection with, the following:
 - 22.1.1 the Services provided by Agency, including its Associates, subcontractors and any of their respective suppliers or personnel (except to the extent such Claims are brought as a result of any inaccuracy, incompleteness or impropriety of information provided to Agency by Advertiser);
 - 22.1.2 any breach of Agency's representations, warranties, covenants and obligations set forth in this Agreement;
 - 22.1.3 acts by Agency or its Associates of gross negligence or willful misconduct;

- 22.1.4 any death, injury to person or damage to property in connection with the Services caused by the negligent acts or omissions of Agency or its Associates;
- 22.1.5 Any breach by Agency Associates of Section 31 (Data Protection);
- 22.1.6 any alleged or actual violation by Agency of any Applicable Laws related to Agency's performance of the Services; or
- 22.1.7 agreements between Agency and the third party bringing the Claim that are made in furtherance of Agency's Services under this Agreement (22.1.1-22.1.7, collectively, "**Advertiser Claims**").

Agency will further indemnify and hold harmless Advertiser Indemnitees from any and all Losses incurred by Advertiser Indemnitees in connection with such Advertiser Claims.

- 22.2 Advertiser will defend Agency Indemnitees from and against any and all Claims which any of them may suffer or incur, or which may be asserted against any of them in whole or in part, to the extent by reason of, or to the extent in connection with, the following:

- 22.2.1 Advertiser Materials, including the inaccuracy, incompleteness or impropriety of information provided by Advertiser to Agency or information otherwise approved for dissemination by Advertiser;
- 22.2.2 any breach of Advertiser's representations, warranties and covenants set forth in this Agreement;
- 22.2.3 acts by Advertiser of gross negligence or willful misconduct;
- 22.2.4 any obligations arising out of Advertiser's written agreements with third parties;
- 22.2.5 death, injury to person or damage to tangible property arising from use of Advertiser's products;
- 22.2.6 payments for authorized Third-Party Costs that Advertiser fails to pay in accordance with this Agreement; or
- 22.2.7 legal risks or restrictions disclosed by Agency to Advertiser in writing (including in connection with any usage restrictions related to the use by Advertiser of third-party materials) whereby Advertiser elects to proceed. (22.2.1-22.2.7, collectively, "**Agency Claims**").

Advertiser will further indemnify and hold harmless Agency Indemnitees from any and all Losses incurred by Agency Indemnitees in connection with such Agency Claims.

- 22.3 Indemnification obligations are subject to the Indemnified Party complying with the following process in the event that a Claim arises:

- 22.3.1 the Indemnified Party must promptly notify the Indemnifying Party in writing of the Claim for which it is seeking indemnification;

- 22.3.2 the Indemnified Party must not make any admission of liability, settlement or compromise without the prior written consent of the Indemnifying Party;
- 22.3.3 the Indemnified Party must give the Indemnifying Party express authority to conduct all negotiations and litigation and to defend and/or settle all litigation arising from such Claim, provided that the Indemnifying Party regularly consults the Indemnified Party on the conduct and defense of the Claim and does not settle or compromise such Claim without the prior written consent of the Indemnified Party, which will not be unreasonably withheld;
- 22.3.4 the Indemnified Party must provide the Indemnifying Party with all available information and assistance in relation to such Claim as the Indemnifying Party may reasonably require at the Indemnifying Party's cost and expense; and
- 22.3.5 Notwithstanding Section 22.3.3 above, if within ninety (90) days after the Indemnifying Party's receipt of notice of any such Claim, the Indemnifying Party fails to take action to defend or settle such Claim, the Indemnified Party may at the Indemnifying Party's expense undertake the defense, compromise or settlement of the Claim as it sees fit upon written notice to the other Party.
- 22.4 Nothing in this Agreement will exclude or in any way limit either Party's liability to the extent such liability may not be excluded or limited as a matter of law.
- 22.5 Subject to Section 22.4, in no event will either Party be liable under or in connection with this Agreement for:
 - 22.5.1 loss of actual or anticipated income or profits;
 - 22.5.2 loss of goodwill or reputation;
 - 22.5.3 loss of anticipated savings; or
 - 22.5.4 any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract, or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.
- 22.6 Agency will use commercially reasonable efforts to cause Vendors and Media Owners to perform their obligations but Agency is not responsible for any acts or omissions of the Advertiser that violate Media Owner or Vendor terms and conditions nor is Agency responsible for Media Owner or Vendor acts or omissions except in the case of Agency's negligence.
- 22.7 If in Agency's opinion any Deliverable (or any portion thereof) is likely to become the subject of a third party claim of infringement, Advertiser will cease using such Deliverable upon Agency's request. In addition, Agency will, at its option, either procure the right for Advertiser to continue using the Deliverable or replace or modify the same to be non-infringing; if neither of the foregoing options is reasonably available, Agency will refund to Advertiser amounts paid for the Deliverable at issue. The foregoing provisions of this Section 22 constitute the sole and exclusive remedy of Advertiser, and the sole and exclusive obligation of Agency, relating to a claim that a Deliverable infringes any Intellectual Property Right of a third party.

22.8 Subject to clause 22.4 each Party's maximum aggregate liability under or in connection with this Agreement (including all Scopes of Work and any indemnity contained in this Agreement), whether in contract, tort (including negligence) or otherwise, shall in no circumstances exceed a sum equal to the Fees paid by the Advertiser to the Agency in the 12 month period prior to any such liability arising.

23. Insurance and Risk Management

23.1 Agency will take out and maintain insurance policies to the values set forth in Schedule 5. Upon Advertiser's reasonable request Agency will provide Advertiser with evidence that such insurance is in place.

23.2 Agency will implement risk management processes to reduce risks to the maximum extent possible, including risks associated with patent infringement. Upon the request of Advertiser, Agency will provide Advertiser with its risk management protocol, which protocol will be subject to Advertiser's reasonable approval. Should Advertiser fail to approve any part of Agency's protocol, Agency will take such steps as necessary to address and correct any deficiencies cited by Advertiser.

24. Intellectual Property

24.1 Agency acknowledges that, as between Agency and Advertiser, Advertiser will own all rights, title and interest (including all Intellectual Property Rights) in and to any Advertiser Materials and Advertiser Data (including any modifications or adaptations of such Advertiser Materials or Advertiser Data produced in the course of providing the Services). Advertiser hereby grants to Agency a non-exclusive, non-transferrable license during the Term to use Advertiser Materials and Advertiser Data solely for the purposes of providing the Services.

24.2 Agency acknowledges and agrees that all Deliverables will constitute "works made for hire" and belong exclusively to Advertiser. To the extent that the ownership of any Deliverable or other original works of authorship do not vest in Advertiser by operation of law and in accordance with the foregoing, Agency hereby agrees, and will cause its Associates to agree, to the extent permitted by law, to irrevocably assign and hereby does irrevocably assign to Advertiser all of its and their respective rights, title and interest in and to any and all Deliverables and any and all proprietary rights contained therein. Agency will ensure and hereby agrees that all Associates creating such Deliverables have executed a work-for-hire agreement and/or assigned to Agency (or Advertiser directly) all of their rights in such Deliverables on terms no less favorable to Advertiser than those set forth herein.

24.3 Advertiser acknowledges and agrees that Agency Information may be incorporated, in whole or part, into the Deliverables and that, notwithstanding any other provision of this Agreement, Agency retains all rights and interest in and to Agency Information subject only to a perpetual, royalty-free, non-exclusive, non-transferrable worldwide irrevocable license granted to Advertiser and its current and future Affiliates to use, modify, amend, create derivative works or otherwise alter such Agency Information solely to the extent necessary for Advertiser to use the Deliverables for its intended purpose. The foregoing license includes the right to grant any of the foregoing rights to third parties engaged by Advertiser or any of its Affiliates, provided that such third parties use the foregoing solely for the benefit of Advertiser or such Affiliates. Agency will seek Advertiser's prior written approval before incorporating third party materials into Deliverables and shall inform Advertiser in writing if Advertiser's ownership of Deliverables will be limited in any way by the rights of third parties.

24.4 Agency agrees, at Advertiser's request and expense, to take all such actions and execute all such documents as are necessary (in Advertiser's reasonable opinion) to enable Advertiser to obtain, defend or enforce its rights in the Deliverables, and will not do or fail to do any act which would or might prejudice Advertiser's rights under this Section 24.

25. Termination

25.1 Advertiser may terminate this Agreement and the Annual Scope of Work without cause at any time during the Term of this Agreement and any subsequent renewal term if applicable, by giving not less than ninety (90) days prior written notice to Agency.

25.2 Agency may terminate this Agreement and the Annual Scope of Work at any time during the Term of this Agreement and any subsequent renewal term if applicable, by giving not less than ninety (90) days prior written notice to Advertiser.

25.3 Advertiser may cancel or terminate a Project at any time subject to the provisions of Section 12.

25.4 Advertiser may cancel or terminate this Agreement at any time in the event of a change of ownership of Agency.

25.5 Either Party may terminate this Agreement or any Project immediately upon written notice to the other Party:

25.5.1 pursuant to Section 27 (Force Majeure);

25.5.2 in the event of any material breach of this Agreement by the other Party which breach is not remediable or, if remediable, is not remedied within thirty (30) days after the service by the Party not in default of a written notice on the defaulting Party, specifying the nature of the breach and requiring such breach to be remedied;

25.5.3 if the other Party suspends, or threatens to suspend payment of its debts or is unable to pay its debts as they fall due;

25.5.4 if the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal or enters into any compromise or arrangement with its creditors (other than for the sole purpose of a solvent reconstruction or a scheme for a solvent amalgamation of that other Party with other companies);

25.5.5 if a petition is filed, or a notice is given, or a resolution is passed, or an order is made for or in connection with the winding up of that other Party (other than for the sole purpose of a solvent reconstruction or a scheme for a solvent amalgamation of that other Party with other companies); or

25.5.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party.

26. Consequences of Termination

- 26.1 Termination of a Project in accordance with the terms of this Agreement by either Party will not serve to terminate this Agreement, which will continue in full force and effect.
- 26.2 Upon termination of this Agreement under Section 25.1 or 25.4, all outstanding Scope of Works will also be terminated.
- 26.3 Upon termination of this Agreement, the Annual Scope of Work or a Project:
- 26.3.1 Except if termination is by Advertiser pursuant to Section 25.5.2, Advertiser will pay Agency all Fees, Expenses and Third Party Costs due to Agency (in accordance with Section 12 where relevant) during the notice period;
- 26.3.2 Each Party will on the reasonable request of the other Party promptly deliver or dispose of any and all materials and property belonging or relating to the other Party (including all Confidential Information) and all copies of the same, which are then in its possession, custody or control and which relate to all affected Scope of Work, and will on the request of the other Party certify in writing that the same has been done;
- 26.3.3 Agency will co-operate in transferring, with the approval of the relevant third parties, all reservations, contracts and arrangements with third parties, solely relating to Advertiser, to Advertiser or any successor agency of Advertiser;
- 26.3.4 Agency will return all outstanding monies to Advertiser in accordance with the timeframes agreed under this Agreement, including all Unbilled Media balances and Rebates and Incentives; and
- 26.3.5 Agency will provide Rebates and Incentives declarations and return Rebates and Incentives to Advertiser in accordance with the terms of this Agreement for all periods in which Advertiser's spend contributes, directly or indirectly, including all periods post termination.

27. Force Majeure

In the event that either Party will be rendered wholly or partially unable to carry out its obligations under this Agreement due to Force Majeure, then the performance of either Party or both Parties, as they are affected by such cause, will be excused during the continuance of any inability so caused, but such inability will be remedied with all reasonable dispatch. In the event such Force Majeure affecting either Party continues for more than thirty (30) days, the Party not subject to the Force Majeure may terminate this Agreement. During the period of a Force Majeure, Advertiser will be entitled to seek an alternative service provider at its own cost with respect to the Services affected. Advertiser will be relieved of the obligation to pay any Fees or any other charges for the provision of the affected Services throughout the duration of such Force Majeure. Notwithstanding the foregoing, in no event will any delay caused by a strike or other labor dispute within Agency excuse Agency's obligation to perform as required under this Agreement.

28. Notices

28.1 A notice given to a Party under or in connection with this Agreement will be in writing and sent to the Party at the address given in this Agreement or as otherwise notified in writing to the other Party, and addressed to:

If to Agency:
 Kelly, Scott and Madison, Inc.
 Attn: David Warso
 303 East Wacker Drive
 Suite 800
 Chicago, IL 60601

If to Client:
 The Cayman Islands Department of Tourism
 Attn: Rosa Harris
 Director of Tourism
 Empire State Building, Suite 4620
 350 Fifth Avenue
 New York, NY 10118 USA

With a copy to:
 The Cayman Islands Department of Tourism
 Government Administration Building
 Box 134
 133 Elgin Avenue, Grand Cayman KY1-9000
 CAYMAN ISLANDS

28.2 The following table sets out methods by which a notice may be sent and, if sent by that method, the corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand.	On Signature of a delivery receipt.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting.
Pre-paid airmail providing proof of postage.	9.00 am on the fifth Business Day after posting.

28.3 For the purpose of this Section and calculating receipt, all references to time are to local time in the place of deemed receipt.

28.4 This Section does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

29. Assignment and Sub-Contracting

- 29.1 Without limiting the generality of Section 2.1, Agency will not be entitled to sub-contract its performance of the Services without the prior written approval of an Authorized Advertiser Approver.
- 29.2 In the event that Advertiser authorizes Agency to sub-contract its performance of the Services in accordance with Section 29.1:
- 29.2.1 any sub-contracting will not relieve Agency from its obligations to Advertiser under this Agreement, including its obligations of transparency and to avoid Conflicts of Interest;
- 29.2.2 Agency will ensure that any agreement it enters into which relates solely to the Services for Advertiser will be subject to a subcontractor agreement assignable to Advertiser at Advertiser's request and include a provision stating that Advertiser is the intended third party beneficiary of the subcontractor's obligations under its agreement with Agency and that Advertiser will have the right to directly enforce the terms and conditions of the agreement; and
- 29.2.3 Advertiser will have the right to require Agency to discharge any subcontractor that is no longer reasonably acceptable to Advertiser.
- 29.3 This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement is personal to Agency, and Agency may not directly or indirectly assign this Agreement [(by operation of law or otherwise) or any of its rights or obligations under the Agreement without the prior written consent of Advertiser, including full or partial assignment, delegation to any agent or subcontractor, and any purported assignment not permitted hereunder will be null and void.

30. Publicity

- 30.1 Agency and Agency Affiliates, together with their respective Associates will not, without Advertiser's prior written consent and a potential applicable fee in each instance, use Advertiser's or any of its Affiliates', divisions' or brands' names or logos, or any of its employees' or agents' names or identities, or refer to any of them in any media release, public announcement or public disclosure relating to this Agreement or any Scope of Work including any promotional materials, web sites, customer lists, referral lists or business presentation.
- 30.2 No attribution to Agency or any Agency Affiliate will appear on any Advertiser Properties, advertisement or other advertising material, without Advertiser's written prior approval by an Authorized Advertiser Approver. Agency and Agency Affiliates may not link to any Advertiser Properties without Advertiser's written prior approval by an Authorized Advertiser Approver. Any approvals granted hereunder may be rescinded at any time.

31. Data Protection

- 31.1 Each Party warrants to the other that it is and will continue to be in compliance with, and be appropriately notified under, the terms of any applicable Data Protection Legislation and any other relevant data protection laws, legislation and regulation.

- 31.2 Unless otherwise agreed by an Authorized Advertiser Approver in writing, Agency agrees for itself, its subcontractors and Agency Affiliates that:
- 31.2.1 they will not collect or retain Advertiser Data;
 - 31.2.2 as between Advertiser and Agency, all Advertiser Data is owned by Advertiser;
 - 31.2.3 Advertiser shall have the right to access, store or otherwise download, export, track, transfer or use Advertiser Data;
 - 31.2.4 they will delete Advertiser Data in accordance with Advertiser's direction;
 - 31.2.5 they will not disclose, sell, assign, lease or otherwise provide Advertiser Data to third parties;
 - 31.2.6 they will not commercially exploit Advertiser Data on behalf of itself or third parties;
 - 31.2.7 they will not aggregate Advertiser Data with the data of any third party; and
 - 31.2.8 they will not use the Advertiser Data for any purpose other than for the provision of Services.
- 31.3 Agency may process Advertiser Data in the course of providing the Services as a data processor on behalf of Advertiser. Agency will process Advertiser Data solely in accordance with Advertiser's instructions and such policies as may be provided by Advertiser from time to time and only for the purpose of providing the Services. Advertiser shall have the right to require (in writing) that Agency use specific Vendors with respect to where, how and in what manner Advertiser Data is used and stored.
- 31.4 Agency will not and will ensure that its Associates do not use cookies to collect data from any individual who has opted out of receiving cookies from Agency or Advertiser whether through Agency's own notice and consent mechanisms or those provided on Advertiser Properties.
- 31.5 Where Agency or its Associates uses any Agency Data in the course of providing the Services Agency will ensure that all such use is in accordance with Data Protection Legislation and that any required consents have been provided by the data subjects.
- 31.6 Where Agency or its Associates processes PII on behalf of Advertiser, then Agency will, and will procure that its Associates will:
- 31.6.1 process such data solely in accordance with Advertiser's instructions from time to time and in accordance with its duties under Data Protection Legislation;
 - 31.6.2 adopt and maintain reasonably appropriate security and organizational measures against unauthorized, unlawful processing, accidental loss or destruction of such data;
 - 31.6.3 notify Advertiser promptly in the event that it or its Associates receive any request from a data subject for access to that person's personal data, where such personal data is processed by or on behalf of Agency as part of the Services; and

31.6.4 notify Advertiser promptly in the event that it or its Associates receive any complaint, notice or communication that relates directly to its compliance with Data Protection Legislation and/or the processing of personal data under or in connection with this Agreement.

32. General

32.1 This Agreement will take precedence over and supersedes any other agreements or terms and conditions between Advertiser and Agency and Agency Affiliates relating to Media Placements (including, but not limited to, any trading desk or inventory media terms and conditions which are made available to Advertiser from time to time). Any attempt to amend this Agreement by the Parties will not be valid unless signed by the Authorized Advertiser Approver in writing. For the avoidance of doubt, the Signature or acceptance by a member of staff of Advertiser to other contractual terms with Agency or Agency Affiliates will not be valid, unless and until the Authorized Advertiser Approver has signed such contractual terms.

32.2 Unless the context otherwise requires, the words "include" and "including" will be construed without limitation.

32.3 The failure of either Party to enforce or exercise at any time any term or any right under this Agreement does not constitute and will not be construed as a waiver of such term or right and will in no way affect that Party's later right to enforce or to exercise it.

32.4 Provisions of this Agreement which are either expressed to survive its termination or which from their nature or context are contemplated to survive termination (including audit provisions) will remain in full force and effect notwithstanding termination of this Agreement.

32.5 If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term will, insofar as it is severable from the remaining terms, be deemed omitted from this Agreement and will in no way affect the legality, validity or enforceability of the remaining terms provided that if any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question will apply with such modification(s) as may be necessary to make it valid.

32.6 This Agreement contains all the terms agreed between the Parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the Parties, whether oral or in writing. Each of the Parties acknowledges and agrees that:

32.6.1 in entering into this Agreement, it has not relied on, and will have no remedy in respect of, any statement, representation, warranty or understanding other than the statements, representations, warranties and understandings expressly set out in this Agreement; and

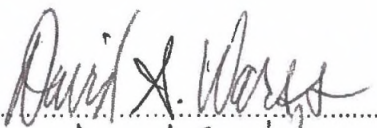
32.6.2 its only remedies in connection with any statements, representations, warranties and understandings expressly set out in this Agreement will be for breach of contract as provided in this Agreement. Nothing in this Section 32.6.2 will, however, operate to limit or exclude any liability for fraud.

32.7 No modification or variation of this Agreement will be valid unless it is in writing and signed by each of the Parties. Unless expressly set out in this Agreement, no modification or variation of this Agreement will:

- 32.7.1 be valid if made by e-mail;
 - 32.7.2 be construed as a general waiver of any provisions of this Agreement; or
 - 32.7.3 affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver. The rights and obligations of the Parties will remain in full force and effect, except and only to the extent that they are so modified or varied.
- 32.8 Except as set forth in Section 2.1, nothing in this Agreement is intended to or will operate to create a partnership or joint venture of any kind between the Parties or to authorize either Party to act as agent for the other, and neither Party will have authority to act in the name or on behalf of or otherwise to bind the other in any way.
- 32.9 Nothing in this Agreement, express or implied, will create or be deemed to create any third-party beneficiary rights in any person or entity not a party to this Agreement.
- 32.10 This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by PDF file (portable document format file) will be as effective as delivery of a manually executed counterpart of this Agreement.
- 32.11 In this Agreement, references to Sections, schedules and appendices are to Sections of and schedules to and appendices to this Agreement. Where any provision contained in the Schedules or a Scope of Work conflicts with any provision of the General Terms the following order of precedence will apply (unless otherwise expressly stated in the Scope of Work):
- 32.11.1 Schedules;
 - 32.11.2 General Terms;
 - 32.11.3 Scope of Work;
- 32.12 Paragraph headings in this Agreement are for ease of reference only and will be disregarded in construing or interpreting the Agreement.
- 32.13 For purposes of this Agreement, whenever the context requires:
- 32.13.1 the singular number shall include the plural, and vice versa;
 - 32.13.2 the masculine gender shall include the feminine and neuter genders, the feminine gender shall include the masculine and neuter genders, the neuter gender shall include the masculine and feminine genders; and
 - 32.13.3 the words include and including, and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words without limitation.
- 32.14 Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement.

- 32.15 This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and performed in such State without regard to conflicts of law principles. The Parties irrevocably submit to the exclusive jurisdiction of any federal or state court located within the City of New York, County of New York and State of New York over any dispute arising out of or relating to this Agreement and each Party hereby irrevocably agrees that all claims in respect of such dispute or any suit, action, or proceeding related thereto may be heard and determined in such courts. The Parties irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

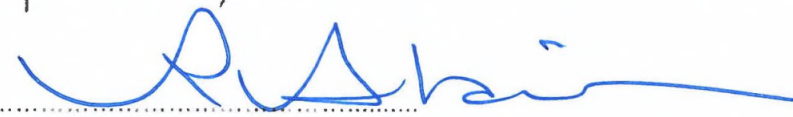
Signature page follows

Signed by: 
by (print name): David S. Warso

As an Authorized Agency Approver for and on behalf of

Kelly, Scott and Madison, Inc.

Date: September 25, 2019

Signed by: 
by (print name): ROSA HARRIS

As an Authorized Advertiser Approver for and on behalf of

The Cayman Islands Department of Tourism

Date: SEPTEMBER 25, 2019

Schedule 1**Annual Scope of Work**

This Annual Scope of Work is issued pursuant to and is in accordance with the Master Media Buying Services Agreement entered into by the Parties effective October 1, 2019 (the "Agreement").

The following scope of work contains details as to how Agency and selected Agency Affiliates will help Advertiser (also referred to as "Client" herein) achieve its overall U.S. marketing communication goals and objectives and serve as the basis for developing staffing and compensation plans required to deliver these goals and objectives. Agency will work with Advertiser's marketing teams as a full strategic partner and provide thought leadership and marketplace insights across all existing and emerging media channels. Agency will be expected to work in complete collaboration, and as a fully integrated team member, with all internal and external communications resources.

Fees

The Agency will earn a fixed non-reconcilable fee ("The Fees") for services rendered under this Schedule 1 as follows:

Year	Fee (in US Dollars)
2019	\$150,000.00
2020	\$844,800.00
2021	\$870,144.00
2022	\$896,248.00
2023	\$923,136.00
2024	\$950,830.00
TOTAL	\$4,635,158.00

The Agency Scope of Work covers the following components:

1. Media in Scope
2. Overall Account Management and Strategic Leadership
3. Strategic Communications Discovery and Insights
4. Media Plan Development
5. Media Buying and Stewardship
6. Data Management, Analytics and Learning
7. Additional Services In Scope

1. Media in Scope

The following media are included in the scope of work for this assignment:

- Network Cable & Syndication
- Local Broadcast/Spot TV/Radio
- Consumer/Trade Magazines
- Digital TV and other Video Forms
- Network/Satellite Radio
- Mobile
- Out-of-Home (Traditional/Digital)
- Other Place-based Media/Cinema
- Digital Display
- Paid Search
- Paid Social
- Email Lists
- Media Partnerships
- Sponsorship Negotiation/Activation
- Experiential Media
- All other new/emerging media platforms

2. Overall Account Management and Strategic Leadership

Agency will be a critical member of the Advertiser marketing communications team. As such, Agency will be expected to work in collaboration with other partners, provide seamless and transparent integration and contribute to the development of key solutions that help provide the Advertiser with meaningful marketplace competitive advantage. For detailed meeting requirements see Exhibit A: Travel Guidelines.

- Counsel Advertiser on key media developments, trends, opportunities.
- Provide recommendations designed to enhance Advertiser media effectiveness.
- Develop strong relationships with our other agency partners that allow for effective collaboration amongst agencies
- Work in cooperation with all partners to ensure the complete integration of all initiatives, making sure that they provide the greatest influence and impact.
- Weekly status reports that capture all key projects, requests and action items by party.
- Overall financial management and budget accountability supported by timely budget and monthly financial reporting along with quarterly reforecasts.
- Provide on-going Client education regarding emerging media platforms and technologies as well as other industry and category insights.
- Be a leader, providing thought leadership that drives creativity and innovation, and helps the Advertiser deliver and achieve the results that matter.
- Drive mutually established KPIs through the ability to be agile and quickly responsive to an ever-changing media and business climate.

Agency will also provide adequate staffing across all disciplines to ensure best-in-class service for the development, management, execution and stewardship of all in-scope media. This will also include ongoing and active participation of Agency senior management in order to assist the Advertiser in seeking to achieve its business objectives and communications goals through progressive evaluations of media plan performance. Further, Agency shall ensure staffing as set forth in the FTE Schedule attached hereto as Appendix A.

Additional deliverables include:

- Appropriate staffing, well managed, well organized and proactive.
- Agency will build and/or maintain strong relationships with all media industry partners, insuring that the Advertiser is among the first to receive the best opportunities.
- Maintain regular communication with Advertiser marketing teams, including conference calls, conference reports and documentation of all key meetings and decisions.
- Provide executive level briefings on current plans for senior management as needed.

3. Strategic Communications Discovery / Insights

Agency will lead in the development of breakthrough strategies for Advertiser, providing ongoing marketplace, media, consumer/trade and research insights that help both marketing teams obtain and sustain meaningful competitive advantage and business success. These would include:

- Situational analyses of trends in the marketplace, consumer behaviour and media consumption across all relevant paid, earned and owned media channels.
- Support the identification and management of data and primary research that helps identify consumer opportunities within the general and multi-cultural markets, as well as those based on geographic considerations.
- Management of appropriate syndicated target consumer and trade research and data stacks, providing insights to aid in audience and media channel selection and delivery.
- The review, analysis and interpretation of proprietary Client research.
- Provide on-going competitive tracking and competitive insights/analysis for key competitors, reported monthly with annual summaries.
- Recommend and manage appropriate quantitative and qualitative research and data management as needed.
- Ongoing, proactive exposure to emerging media and technology news, consumer trends and valuable partners – tailored specifically to surface a pipeline of emerging tech marketing opportunities for the Cayman Islands.

- Develop 2x actionable intelligence presentations illustrating trends impacting the travel industry + implications for Cayman Islands
- - Presentations will last approximately 2 hours and can be delivered at Client's chosen destination.
 - Minimum of two-weeks' notice required for presentations
- Speed dating with relevant partners with opportunities that align to these trends (where appropriate)
- Hold work session with stakeholders to identify next steps

4. Media Plan Development

Agency will provide integrated, channel-neutral communications plans for the Advertiser marketing team based on specific business, product marketing and communications tasks and campaigns. Agency will craft and optimize plans designed to reach high opportunity consumer and trade targets and leveraging research, data, proprietary planning tools and systems and past learning to achieve stated objectives. Agency will continually push our media plan strategy forward to ensure we are on the cutting edge of technology and innovation.

Elements will include:

- Development and presentation of overarching media strategy and objectives along with comprehensive media plans that meet Advertiser expectations and that are fully supported using all relevant quantitative and qualitative benchmarks.
- Identification of media/channels that could potentially offer the Advertiser the most marketplace ownership and engagement, given competitive and broader audience behavior and media consumption trends.
- Provision of insight and recommendations on media efficiencies, message management, traffic (TV/digital) management, target audience, competitive analysis and guidelines for weekly weight and audience delivery to maximize impact against the target audience.
- Create/update multiple plan revisions or options as needed.
- Development of a comprehensive digital strategy identifying the roles and marketplace pressure for all in-scope digital media, including recommendation of custom programs.
- Create opportunities for cross-channel integration.
- Establish performance metrics across and within media channels.
- Provide sales support documentation as appropriate.
- Provide point-of-views on new and emerging media opportunities and sponsorships.
- Provide technologies that support the management of all agency initiatives.
- Provide aggressive test and learn opportunities, with full documentation of test variables, measurement and success metrics and how such opportunities will be scaled if successful.
- Deliver media flowchart demonstrating choice of channel format, flighting, duration, level of pressure, impressions, and costs by channel.

5. Media Buying and Stewardship

Provide overall go-to-market strategies, execution and stewardship of the following media forms, with support as detailed and as appropriate. For all media the Agency will negotiate highly competitive rates including added value and partnerships aligned with brand requirements, subject at all times to the terms of the Agreement. Upon receipt of all necessary information to determine the additional scope (as mutually determined by the Parties), Advertiser may consider alternative buying strategies, including direct response, if appropriate and if they bring significant efficiencies and effectiveness. Any alternative buying strategies shall require a written agreement between the Parties (which may include via email); remain subject to the terms and conditions of this Agreement unless otherwise agreed upon by the Parties or required by law; and may require additional fees.

Video (Broadcast, Cable, Online)

- Go-to-market strategy recommendation to include market/channel/network selection.
- Provide and facilitate added value and content integration recommendations.
- Provide detailed buy summaries including vendor name, ad schedules and TRPs/impressions.
- Steward buys, managing traffic instructions and monitoring performance in real time.
- Monitor scheduling during flights.
- Conduct post buy analysis and confirm plan delivery on quarterly basis.
- Secure affidavits of performance.
- Provide cutting edge "test & learn" opportunities to fully leverage video investments.

Print

- Analysis and research (Syndicated, ABC/BPA, publisher provided), including on-going test & learn evaluation and implementation as appropriate.
- Evaluation/recommendation/execution of new opportunities where applicable.
- Investigate and help facilitate all added value opportunities.
- Provide schedules with space and materials deadlines.
- Conduct placement analysis and ensure all guidelines are followed.

Digital and New Emerging Media

- Digital media planning and buying across all digital channels within scope.
- Campaign tracking, reporting and analysis (including assessment of current tracking methodology and tools). This includes ongoing machine optimization, monthly reporting, quarterly deep dives and event recaps with recommendations for future improvement.
- Manage banner serving and all go to market elements for online campaigns.
- Optimize campaign regularly to ensure campaign meets and/or exceeds performance standards and campaign objectives.
- Comprehensive strategy and execution of search objectives, including campaign set-up and architecture, keyword list creation, bid strategy and management, writing search copy and establishment of KPIs and traffic as needed.
- Utilization of advanced web analytics to measure performance on desktop and mobile websites against annual and/or monthly objectives, impact of paid, organic, social and referral traffic contributions to performance, site traffic forecasting, online store sales and product breakdown and audience behavior on-site.
- Negotiation and execution of vendor contracts.
- Tagging, QA and trafficking of all ad units.
- Paid mobile and social campaign execution and stewardship as required.
- Actively propose social media strategies in collaboration with creative agency to provide results for creative optimization, improvements in creative and development of best practices.
 - Provide final specs to creative agencies for development.
 - Coordinate and ensure timely receipt of assets from creative agencies for upload and quality assurance testing pre and post live date. Ensure proper tagging and pixel creation.
- Upload and assign the creative assets to the necessary media placements. QA and traffic all assets and instructions to the appropriate ad servers/publisher contracts. Share proof of campaign placements.
- Conduct ongoing campaign stewardship and optimization with daily monitoring week one and weekly thereafter to include delivery/performance management, media buy reallocation/optimization, conflict resolution and monthly delivery actualization across media properties for timely payment.
- Collaboration with creative agency to provide results for creative optimization, improvements in creative and development of best practices.
- Provide leadership on cutting edge "test & learn" opportunities in the New Media space.

Out-of-Home

- Cost and unit availability assessment.
- Location evaluation and recommendation.
- Provide mechanical specifications.
- Conduct placement review.

Audio (Traditional Radio, Streaming Radio)

- Overall go-to-market strategy and recommendation.
- Cost assessment.
- Provide and facilitate added value opportunities.
- Steward buys and manage traffic instructions and monitoring performance in real time
- Monitor scheduling during flights
- Secure affidavits of performance

Sponsorship Negotiation/Activation

- Investigation of available inventory, costs and feasibility with potential partnerships.
- Comprehensive evaluation of all property proposals.
- Represent the client in all matters of partnership negotiation
- Planning & execution of sponsorship extensions, promotions & event marketing initiatives.
 - Manage day-to-day communication with each property to ensure all sponsor elements are being fulfilled in a timely & professional manner.
 - Provide proof of performance & recaps from each property.
 - Deliver a thorough recap & program measurement analysis for each partnership.
 - Provide POV and “go forward” strategies for future partnership optimization.

ALL Forms - Monitor, Maintenance and Accountability

- Buys, schedules and allocations
- Competitive collection, monitoring, analysis, regular reporting
- Post Analyses
 - Delivery/planned/purchased
 - Positioning
 - Recap of added value
- Financial Controls
 - Budgets/estimate/actual
 - Invoicing
 - Verification/audit
 - Payment schedules

6. Data Management, Analytics and Learning

Providing campaign visibility and investment accountability is critical to the business. Agency will offer the following resources on behalf of the Advertiser marketing teams:

- Establish and implement a methodology to track against goals/success criteria.
- Technology-driven solutions that allow Advertiser marketing teams to have 24/7 access to critical media and marketing information.
- On-going campaign optimization via rigorous campaign performance monitoring and analysis.
- High-level campaign performance analysis – exact schedule of delivery to be determined.
- Leverage both proprietary and syndicated research tools, systems and methodologies to correlate media communications activity with results.

- Provide key insights and learnings for all digital brand campaigns, and any other initiatives. Provide rolling monthly dashboard, including detailed post-report analysis based on pre-determined KPIs.
- Create opportunities to share any new insights that can inform and drive better strategic and tactical decision-making. Identify opportunities to innovate.
- Provide learning opportunities through the application of advanced analytics, providing the Client with options for investment in awareness, sales and ROI modeling, multi-touch digital attribution models and media mix modeling.
- Monitor brand study data collection and aggregation from partners; gather marketing information (creative, testing variables, etc.). Facilitate analysis and report delivery with vendor/research partner.

7. Project Scope of Work

To be added in the event projects are agreed upon that fall outside of the scope of the Annual Scope of Work.

Exhibit A

Travel Guidelines

Except as otherwise set forth in the applicable SOW, Agency hereby acknowledges and agrees to Client's Travel Guidelines set forth below:

All Agency travel shall be coach class and must be pre-approved by the Client. The Agency shall use its best efforts to control travel costs. All hotel rates must be pre-approved by the Client. All other incidental expenses of a personal nature which are charged to the hotel room, such as laundry and personal telephone calls, will be the responsibility of the Agency. All Agency expenses must be properly documented.

Travel time shall not be billed by the Agency unless services in relation to the Client are performed during that period pursuant to Client's written direction. Upon receipt of a written request from the Agency, the Client shall be responsible for the Agency's approved air travel, hotel and per diem from locations within the United States. A per diem not to exceed US\$130 per day will be provided to the Agency's designated representative (who will be mutually determined by the parties) (the "Representative"). All additional expenses shall be the responsibility of the Agency and their Representative.

All air travel originating from other destinations will be the sole responsibility of the Agency unless otherwise approved in advance, in writing by the Client.

Participation in appropriate marketing and media meetings by conference call or in-person (in United States or the Cayman Islands), as needed by Client. Depending on meeting, senior leadership participation is expected, in addition to any other relevant members of the account team. Beyond day-to-day account management needs, other meetings will include, but are not limited to:

- In-person meetings where senior leadership participation and travel is required:
 - Up to three Media plan presentations; estimated 2-3 day trips

Agency shall cover travel expenses for one trip, for two (2) Senior Agency employees per year (such employees to be approved by Client), to the Annual Global Meetings inclusive of coach-class air travel, hotel and per diem expenses (up to US\$130 per day). Any additional staff will be at the Agency's expense. The parties will review the per diem rate on an annual basis.

Schedule 2

Omitted

Schedule 3

Omitted

Schedule 4

Omitted

Schedule 5

Insurance

Agency will at all times during the Term and for two (2) Years thereafter, without limiting Agency's liability to Advertiser, maintain the following insurance coverage:

(i) Worker's Compensation insurance of the type, and amount required to comply with all statutory or regulatory requirements of any nation, state, province or territory having jurisdiction over Agency's employees, including, if applicable, foreign worker's compensation insurance, as well as Employer's Liability insurance with limits of not less than \$1,000,000 per accident for bodily injury by accident and not less than \$1,000,000 for each employee for bodily injury by disease. Such Worker's Compensation Insurance will include a waiver of subrogation in favor of Advertiser as permitted under applicable law and such Employer's Liability insurance will provide defense coverage, with costs of defense outside the limits of liability.

(ii) Commercial General Liability¹ insurance written on an occurrence basis in an amount of not less than \$10,000,000 per occurrence, and including coverage for (a) premises and operations; (b) bodily injury and broad form property damage, including products and completed operations; (c) personal injury and advertising injury; and (d) contractual liability for bodily injury, property damage, personal injury and advertising injury, including contractual liability assumed by Agency pursuant to this Agreement and including this Agreement as an "insured contract"; (e) independent contractors liability; and (f) work performed by others for Agency. Such insurance will provide defense coverage, with costs of defense outside the limits of liability.

(iii) Automobile liability insurance with limits of not less than \$10,000,000 per occurrence for bodily injury and property damage and including coverage for owned, rented (or hired) and non-owned vehicles. Such insurance will provide defense coverage, with costs of defense outside the limits of liability.

(iv) Commercial Advertising Agency Liability insurance, including contractual liability coverage, and errors and omissions liability insurance, written on a claim made basis with limits of not less than \$10,000,000 per claim.

Such policy will provide coverage for: (A) personal and advertising injury perils including defamation, trade libel, right of publicity, outrageous conduct, infliction of emotional distress, unfair competition and copyright and trademark infringement, (B) negligent supervision of an employee or subcontractor, (C) comparative advertising, (D) temporary and leased personnel, (E) internet advertising content and (F) advertising professional services.

(v) All insurance required herein of Agency will: (i) provide that it is primary and non-contributory to any insurance or self-insurance that is maintained by or otherwise afforded to Advertiser, (ii) with respect to the coverages referenced in the Agreement and Schedules, other than the errors and omissions liability insurance pursuant to section (iv), name Advertiser and its current or future affiliates, and their respective officers, agents, directors and employees as additional insureds, as their interest may appear in this Agreement, and (iii) be placed with insurance carriers licensed in the State of New York but in no event rated less than A by A.M. Best's Insurance Guide. Umbrella or excess liability insurance may be used to satisfy the limit of liability requirements imposed under this Agreement and Schedules. Cancellation or

termination of any insurance policy required of Agency under this Agreement will not relieve Agency of its continuing obligation to maintain insurance coverages in accordance with this Schedule 5. Agency will either extend its insurance to cover sub-contractors and Vendors or will make commercially reasonable efforts to cause subcontractors and Vendors to maintain commercially reasonable insurance coverage.

(vi) The terms of all insurance policies referred to in this Schedule 5 will provide that Agency and its insurers waive all right of recovery or subrogation against Advertiser. Any self-insured retention or deductible greater than \$10,000 per occurrence for any of the foregoing insurance must be approved by Advertiser in writing and Agency will be solely responsible for payment of any self-insured retention or deductible under the insurance required by this Agreement. To the extent that Agency maintains insurance greater than the minimum requirements set forth above, Agency agrees that such insurance will be applicable to any of Agency's obligations under the Agreement. In specifying minimum insurance requirements in this Agreement, Advertiser does not assert or recommend this insurance is adequate to Agency's requirements. Agency is solely responsible to inform itself of the types or amounts of insurance it may need beyond these requirements to protect itself from liability or loss.

(vii) This Schedule 6 will in no way affect the indemnification, remedies or warranty provisions of this Agreement.

Schedule 6

Codes of Conduct

Advertiser Code of Conduct

[Insert]

Agency Code of Conduct

[Insert]

Non-Disclosure Agreement

between

[Agency] and **[Auditor]**

This Non-disclosure Agreement (the "**Agreement**") is entered into by and between **[Insert name of Auditor]** ("**Auditor**"), with offices located at **[insert address]**, and Kelly, Scott and Madison, Inc. (the "**Agency**"), with offices located at 303 East Wacker Drive, Suite 800, Chicago, Illinois 60601 .

Whereas Agency entered into a Master Media Buying Services Agreement (the "**Master Agreement**") with **[Advertiser Name]** (the "**Advertiser**") dated October 1, 2019 pursuant to which the Advertiser is entitled to audit certain Records (as defined in the Master Agreement) (the "**Audit**") for the limited purpose of confirming Agency's compliance with the terms of the Master Agreement ("Purpose"). Whereas the Advertiser has appointed Auditor to conduct an Audit in accordance with the terms of the Master Agreement. The parties agree that this Agreement shall govern the disclosure of Confidential Information between Agency and Auditor as hereinafter defined. Capitalized terms used but not defined herein shall have the meaning set forth in the Master Agreement.

The parties hereby agree as follows:

1. Each party acknowledges that it may receive or otherwise become aware of Confidential Information belonging to the other party whether by virtue of or in the course of the Audit.
2. "**Confidential Information**" means information, in oral, tangible or electronic form relating to either party, its Affiliates (as defined in the Master Agreement), employees and/or customers, businesses, business plans or affairs, which information is proprietary and confidential to such disclosing party ("**Disclosing Party**"), including materials protected by the Defend Trade Secrets Act. Confidential Information will also include any document marked specifically as confidential information of the Disclosing Party , or any information which the receiving party ("**Receiving Party**") has been informed is confidential or which the Receiving Party ought reasonably to expect the Disclosing Party would regard as confidential.
3. Confidential Information shall not include information that:
 - (a) at the time of receipt by the Receiving Party is in the public domain;
 - (b) subsequently comes into the public domain through no fault of the Receiving Party or its employees;
 - (c) is lawfully received by the Receiving Party from a third party on an unrestricted basis;
 - (d) can be demonstrated to have already been lawfully known to the Receiving Party before receipt hereunder; or
 - (e) is independently developed by the Receiving Party without use of or reliance on the Disclosing Party's Confidential Information.

In addition, with respect to Advertiser confidential information (including without limitation, Deliverables and media rates), both parties acknowledge and agree that their treatment of any such information disclosed that may be considered Advertiser confidential information, shall be governed by their respective agreements with the Advertiser. In order to prevent confusion about whether certain Records are Agency Confidential Information or Advertiser confidential information, Agency shall identify on Exhibit A hereto, subject to Advertiser's approval, the Records or type of Records which will or will likely be disclosed in the Audit and which constitute Agency Confidential Information.

4. The Receiving Party agrees to take reasonable measures to protect the confidentiality of the Disclosing Party's Confidential Information that it receives, but no less than the standard of care the Receiving Party applies to its own Confidential Information and, except as requested or directed by the Disclosing Party, or as permitted in this Agreement or the Master Agreement, the Receiving Party will not disclose the Disclosing Party's Confidential Information to third parties without the Disclosing Party's prior written consent.
5. The Auditor may disclose the Agency's Confidential Information (i) to the Advertiser in furtherance of the Audit and in a manner consistent with Section 6 below; and (ii) to its subsidiaries or other member firms or within its global network of separate and independent firms and other parties that the Auditor engages to assist with its back office business operations (e.g., IT support, outsourcers); and/or (iii) for internal, administrative and/or regulatory compliance purposes who reasonably require access to such information for purposes of the Audit (collectively, "**Auditor Representatives**"); provided that such Auditor Representatives have been informed of the confidential nature of the Agency's Confidential Information and agree to be bound by confidentiality obligations to the Auditor consistent with the terms hereof. Notwithstanding the foregoing, the Auditor shall be responsible for all Confidential Information provided to any Auditor Representatives. Notwithstanding the foregoing, as part of the Audit, the Auditor and the Auditor Representatives may use media pricing and audience data relating to the Advertiser provided to the Auditor by or on behalf of the Advertiser (including, without limitation, data supplied by the Agency) in an aggregated and anonymised form to form part of a database/pool to be used to provide comparative auditing or benchmarking services to the Advertiser and other customers of Auditor.
6. Consistent with the Master Agreement, Auditor will not disclose any of the following Agency Confidential Information without the Agency's consent:
 - (a) information relating to the Agency's other clients (unless such disclosure is in anonymized form and is necessary to confirm compliance with the Master Agreement);
 - (b) any salary, payroll and personnel records (other than timesheets); or
 - (c) Overhead.

Nothing in this Section 6 shall prevent the Auditor from recalculating amounts pertaining to the Advertiser's account and disclosing the amount and nature of any discrepancy to the Advertiser, it being understood that the Auditor will endeavour to disclose the minimum necessary for the Audit.

7. Notwithstanding anything to the contrary, neither party will be in breach of this Agreement for disclosing the other party's Confidential Information in circumstances where such disclosure is required by law, regulation or order of a competent authority, provided that the owner of the Confidential Information is given reasonable advance notice (if legally permissible) of the intended disclosure and a reasonable opportunity to challenge the same.
8. All of the Disclosing Party's Confidential Information provided to the Receiving Party and any copies thereof or derivatives thereof in whatever form shall be returned to the Disclosing Party or destroyed upon request or upon completion or termination of the Audit. Notwithstanding the foregoing or anything to the contrary, the Auditor may retain its work papers, the Advertiser audit deliverables and the Agency's Confidential Information to comply with its document retention policies or automatic electronic archiving and back-up procedures, applicable law, rule, regulation or professional standards. Any information so retained shall be maintained in confidence in accordance with this Agreement.
9. This Agreement shall be governed and construed pursuant to the laws of the state of New York, without giving effect to any conflict-of-law provisions that would require the laws of another jurisdiction to apply and the parties irrevocably submit to the exclusive jurisdiction of the New York courts in respect of any dispute (contractual or non-contractual) arising from it.
10. The Auditor's confidentiality obligations under this Agreement will terminate three (3) years from date of execution.
11. Each party's aggregate liability to the other party for all claims, losses, liabilities or damages in connection with this Agreement or its subject matter, whether as a result of breach of contract, tort (including negligence) or otherwise, regardless of the theory of liability asserted, is limited to no more than [insert amount \$XXX]. In addition, neither party will be liable to the other party in any event for lost profits, consequential, indirect, punitive, exemplary or special damages. Further, neither party shall have any liability to the other party arising from or relating to any third-party hardware, software, information or materials selected or supplied by or on behalf of the other party.
12. The parties agree that this Agreement does not modify the existing agreement(s) between the Agency and the Advertiser and the existing agreement(s) between the Auditor and the Advertiser.
13. If all or any portion of a provision of this Agreement is found to be unenforceable or invalid, the remainder of such provision and this Agreement shall be enforced to the maximum extent permitted by law.
14. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one single document between the parties. Counterparts may be exchanged by facsimile, or attached as a pdf, jpeg, or similar file type to an email.
15. This Agreement represents the entire agreement between the parties hereto with regard to the subject matter hereof, and supersedes any prior understandings, proposals or agreements, if any, between the Auditor and the Agency concerning either party's Confidential Information as it relates to the Audit. Any changes to this Agreement must be agreed by the parties in writing.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its duly authorized representative and is effective as of the later of the dates set forth below (the "Effective Date").

[Auditor]:	Kelly, Scott and Madison, Inc.:
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A

Record/Record Category	Description