ACORN MARKETING

ACORN MARKETING MEDIA CAMPAIGN TERMS & CONDITIONS

Approval of any media proposal, media plan, schedule, authorization, estimate, insertion order, or similar document issued by Acorn Ventures, Inc., doing business as Acorn Marketing ("Agency"), each referred to as a "Plan," constitutes Client's acceptance of these Media Terms & Conditions ("Terms").

Each Plan identifies the applicable campaign scope, media types, budgets, costs, Agency fees or commissions, schedules, flight dates, spend levels, minimum commitments, and other campaign-specific requirements. Changes requested or approved after a Plan has been authorized may result in additional charges, revised schedules, altered performance expectations, or a revised Plan.

1. Relationship to Other Agreements

These Terms and each approved Plan supplement any Agency of Record agreement, master services agreement, project agreement, or other written agreement between Agency and Client.

If an approved Plan conflicts with another governing agreement, the Plan shall control only with respect to the specific media scope, media channels, budget, spend levels, flight dates, campaign duration, minimum commitments, and media or vendor obligations identified in the Plan. In all other respects, the governing agreement shall control.

If no separate governing agreement exists, the approved Plan and these Terms constitute the agreement between Agency and Client concerning the applicable media campaign.

2. Client Approval and Authority

Client represents that each person who approves a Plan, budget, schedule, advertisement, campaign modification, or other instruction on Client's behalf is authorized to bind Client.

Agency may reasonably rely upon approvals and instructions received from Client's owners, officers, employees, representatives, or designated contacts until Client provides written notice changing or restricting that authority.

Approvals may be provided through a signed Plan, electronic signature, email, project management platform, or another electronic method accepted by Agency. Such approvals shall have the same force and effect as an original written signature.

3. Campaign Commitments and Cancellation

For all traditional and digital media, campaign terms, flight dates, spend levels, minimum commitments, and cancellation restrictions are defined in the approved Plan.

Client acknowledges that media, production, technology, platform, and vendor commitments may extend beyond the term of an Agency of Record agreement or other service agreement. Termination or expiration of another agreement does not relieve Client of responsibility for obligations incurred or approved under a Plan.

Client remains responsible for all approved, incurred, reserved, or non-cancelable commitments, including media charges, production charges, technology costs, platform fees, talent or licensing expenses, vendor penalties, cancellation charges, short rates, rate adjustments, loss of discounts, and other costs resulting from Client-requested changes, reductions, delays, suspensions, or cancellations.

Traditional media reservations may be subject to vendor-specific cancellation deadlines, prepayment requirements, inventory restrictions, make-good policies, short rates, and other terms. Agency does not guarantee the availability of specific programs, placements, dates, times, locations, inventory, or rates until confirmed by the applicable media vendor.

Unless otherwise specified in the approved Plan, digital media campaigns require a minimum commitment of twelve (12) consecutive months beginning on the campaign launch date. This commitment allows time for strategy development, setup, data collection, platform learning, testing, optimization, and reporting.

During the minimum commitment period, Client may not cancel, pause, materially reduce, or terminate the campaign or its Agency management fees without financial responsibility as provided in these Terms and the approved Plan. The digital media commitment survives the termination or expiration of any other agreement between Agency and Client.

If Client requests or causes cancellation, suspension, or material reduction before the expiration of an approved commitment, Client shall remain responsible for:

1. All services performed and costs incurred through the effective date of the cancellation, suspension, or reduction;
2. All approved, reserved, incurred, or non-cancelable media, production, platform, technology, talent, licensing, and vendor charges;
3. All cancellation charges, short rates, penalties, rate increases, lost discounts, and other vendor or media adjustments;
4. Reasonable campaign wind-down, cancellation, transfer, or administrative expenses; and
5. Any remaining Agency fees, early-termination charges, or other financial obligations identified in the approved Plan or governing agreement.

Any early-termination fee or remaining-fee obligation is intended to reasonably compensate Agency for reserved capacity, unrecovered setup and strategy costs, lost revenue, and other anticipated damages resulting from early termination and is not intended as a penalty.

Agency will credit Client for any amounts Agency is able to avoid or recover from vendors, except that Agency is not required to refund amounts already earned, incurred, committed, or paid on Client's behalf.

4. Budgets, Spend Levels, and Delivery

Client agrees to maintain the minimum media spend levels and Agency management fees or commissions identified in the approved Plan.

Client acknowledges that platform and vendor delivery may fluctuate and that daily, weekly, or monthly spend may not occur in equal increments. Unless otherwise stated in the Plan, Agency may manage campaign pacing across the approved campaign period.

Agency will not intentionally exceed the total approved media budget without Client approval, except for minor platform-generated overdelivery, billing adjustments, taxes, fees, or other amounts outside Agency's reasonable control.

Agency does not guarantee that the entire approved budget will be spent when inventory availability, audience size, platform policies, ad approvals, performance considerations, technical limitations, Client delays, or other circumstances make full delivery impracticable or inadvisable.

Unused media budget does not reduce Agency fees for services already performed or resources reserved for the campaign unless otherwise stated in the Plan.

5. Invoicing, Payment, and Nonpayment

Agency will invoice Client monthly unless otherwise stated in the approved Plan. Unless a Plan provides different payment terms, invoices are due within thirty (30) days of the invoice date.

Agency is not required to advance its own funds, extend its own credit, or finance Client's media, production, technology, platform, or vendor obligations.

Agency may require advance payment, a media deposit, automatic electronic payment, a valid payment method, or other reasonable financial assurance before reserving inventory, placing media, committing funds, incurring third-party expenses, launching a campaign, or continuing an existing campaign.

Unless Agency expressly agrees otherwise in writing, Agency will pay media vendors and other third parties only after Client's corresponding payment has been received in full and has cleared.

Client must notify Agency in writing of any good-faith invoice dispute within ten (10) business days after receipt of the invoice, identifying the disputed amount and the basis for the dispute. Client shall timely pay all undisputed amounts. Failure to dispute an invoice within the stated period constitutes acceptance of the invoice, except in the case of a demonstrable billing error that could not reasonably have been identified during that period.

Amounts not paid when due may accrue a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less. Client shall reimburse Agency for reasonable costs incurred in collecting past-due amounts, including attorneys' fees, court costs, collection agency fees, and administrative expenses.

If Client fails to pay any amount when due, Agency may, without liability and in addition to any other available remedies, delay or suspend work, suspend or terminate campaigns, withhold media placement or vendor payment, cancel reservations where permitted, decline to incur additional costs, restrict access to reports, files, accounts, or deliverables, require advance payment for future services, or require Client to assume direct responsibility for unpaid or non-cancelable vendor obligations.

Client remains responsible for all costs resulting from nonpayment or suspension, including vendor penalties, short rates, lost discounts, reinstatement charges, platform charges, delayed-launch consequences, and non-cancelable commitments.

Agency may apply Client payments first to past-due Agency fees, service charges, collection costs, and other amounts owed to Agency and then to media or vendor obligations.

6. Political Advertising and Campaigns

For purposes of these Terms, "Political Advertising" includes advertising or communications purchased by, on behalf of, or concerning a candidate for public office, candidate committee, political party, political action committee, ballot question committee, millage campaign, bond proposal, referendum, initiative, recall, issue advocacy organization, independent expenditure committee, governmental campaign, or any other political, ballot-related, or election-related organization, proposal, question, or initiative.

All Political Advertising campaigns must be paid in full in advance of campaign commencement.

Agency is not required to reserve inventory, place media, incur third-party costs, submit advertisements for approval, commit funds, or launch Political Advertising until Agency has received full payment of:

1. The approved media budget;
2. All Agency fees and commissions;
3. All anticipated production, platform, technology, talent, licensing, and vendor costs;
4. All applicable taxes, surcharges, and regulatory fees; and
5. Any required contingency amount identified in the Plan.

If the final cost exceeds the amount prepaid because of Client changes, vendor adjustments, taxes, platform charges, additional production, revised schedules, or other approved costs, Client shall pay the additional amount before Agency incurs the expense or continues the affected portion of the campaign.

Any unused prepaid amount remaining after all campaign invoices, adjustments, vendor reconciliations, and obligations have been finalized will be returned or credited to Client, as determined by Agency.

Client is responsible for identifying the correct sponsoring entity and providing all information, authorizations, disclaimers, disclosures, registrations, certifications, and documentation required by applicable election laws, campaign-finance laws, media vendors, and advertising platforms.

Agency may require legal review or written confirmation from Client's election-law counsel before accepting or distributing Political Advertising. Agency may reject, suspend, or discontinue Political Advertising that Agency reasonably believes may violate applicable law, platform rules, media-vendor requirements, or Agency policies.

Nothing in these Terms authorizes Agency or a media vendor to charge a rate inconsistent with any rate, access, disclosure, recordkeeping, sponsorship-identification, or other requirement imposed by applicable law. Any legally required candidate rate or vendor adjustment shall be reflected in the final campaign reconciliation.

7. Taxes and Third-Party Charges

Client is responsible for all applicable sales, use, excise, digital advertising, platform, regulatory, or similar taxes, assessments, surcharges, and governmental fees associated with the Plan, excluding taxes based solely upon Agency's net income.

Media, platform, technology, production, shipping, postage, talent, licensing, research, data, and other third-party charges may be passed through to Client as stated in the Plan.

Third-party rates and charges may change after a Plan is approved. Agency will use commercially reasonable efforts to notify Client of material changes, but Client remains responsible for vendor-imposed charges that were not reasonably known when the Plan was prepared.

8. Client Delays

Client is responsible for providing timely approvals, content, creative assets, access credentials, data, information, legal disclaimers, and other materials required to execute the Plan.

Agency is not responsible for missed deadlines, shortened campaign flights, unavailable inventory, increased rates, reduced delivery, delayed optimization, diminished performance, or other consequences caused by Client's delay or failure to provide required materials, information, payment, or approval.

If Client delays required approvals, assets, payment, access, or information, Agency may invoice for work completed to date, continue invoicing recurring Agency fees, adjust campaign schedules and performance expectations, extend campaign end dates, reallocate resources, require a revised Plan, charge reasonable restart or rescheduling fees, and invoice all approved, incurred, or non-cancelable commitments.

Client-caused delays do not reduce Client's financial commitments or Agency fees.

9. Agency Authorization and Third-Party Vendors

Client authorizes Agency, solely for purposes of implementing approved Plans, to place media orders and engage platforms, publishers, production providers, technology providers, data providers, and other subcontractors or third-party vendors as Agency reasonably determines necessary.

Agency may contract with such parties on Client's behalf or in Agency's own name and may accept standard vendor contracts, platform terms, insertion orders, cancellation policies, and other customary terms applicable to the approved services.

Agency is responsible for directing its own personnel and subcontractors but is not responsible for the independent acts, omissions, insolvency, misconduct, technical failures, or contractual defaults of third-party media vendors, platforms, publishers, or service providers outside Agency's reasonable control.

Nothing in these Terms creates a partnership, joint venture, fiduciary relationship, employment relationship, or general agency relationship between Agency and Client.

10. Third-Party Platforms, Performance, and Reporting

Client acknowledges that campaigns rely upon third-party platforms, publishers, media vendors, technology providers, data providers, and other services that Agency does not own or control. Such third parties may change their policies, algorithms, inventory, functionality, pricing, fees, reporting methods, attribution models, approval standards, audience definitions, targeting capabilities, data availability, or terms of service at any time and without notice.

Agency is not responsible for ad disapprovals, account restrictions or suspensions, platform outages, algorithm changes, invalid-traffic determinations, reporting delays, data discrepancies, data loss, reduced inventory, rejected claims, changes in audience availability, cybersecurity incidents affecting third parties, or other third-party acts or omissions outside Agency's reasonable control.

Agency may modify campaign tactics, placements, targeting, pacing, budgets, creative formats, or schedules when reasonably necessary to address platform requirements, inventory conditions, performance data, legal requirements, or technical limitations, provided that such changes remain materially consistent with the approved Plan.

Client is responsible for conditions associated with Client's business, website, products, services, prior account activity, billing history, claims, regulatory status, or failure to complete advertiser verification that result in a platform restriction, suspension, rejection, or delay.

Agency will use commercially reasonable efforts to manage and optimize campaigns in accordance with the approved Plan and generally accepted industry practices. Agency does not guarantee any specific number of impressions, clicks, leads, conversions, sales, customers, revenue, return on advertising spend, search position, market share, or other performance result unless a specific written guarantee is expressly included in the approved Plan.

Campaign performance is influenced by factors outside Agency's control, including Client's pricing, offers, reputation, products, services, sales process, customer service, website performance, inventory, market conditions, competition, seasonality, economic conditions, media availability, platform algorithms, and consumer behavior.

Reports are based on data supplied by third-party platforms, vendors, analytics systems, and Client systems. Such data may contain discrepancies, attribution differences, estimated results, delayed reporting, invalid-traffic adjustments, or subsequent revisions. Agency is not responsible for discrepancies among reporting platforms or for decisions made solely from incomplete or inaccurate third-party or Client-provided data.

11. Client Content, Claims, Legal Compliance, and Data

Client represents, warrants, and agrees that all information, claims, offers, prices, promotions, testimonials, endorsements, reviews, intellectual property, audience data, customer information, products, services, and other materials provided or approved by Client are accurate, not misleading, properly substantiated, lawful for the intended use, owned by Client or properly licensed, consistent with applicable laws and regulations, and supported by all required permissions, releases, consents, notices, disclosures, and approvals.

Client is solely responsible for the legality, accuracy, completeness, and substantiation of claims concerning Client's products, services, prices, qualifications, warranties, performance, promotions, and business practices. Client shall obtain all licenses, permissions, releases, consents, privacy notices, regulatory approvals, and legal reviews required for the campaign.

Agency may identify potential concerns as a professional courtesy but is not responsible for independently verifying Client's representations or determining whether Client's advertising, business practices, products, services, or data practices comply with applicable law, professional standards, or industry regulations.

Agency does not provide legal, regulatory, medical, financial, tax, election-law, or compliance advice. Client is responsible for obtaining qualified professional review when appropriate.

Agency may reject, remove, suspend, or decline to distribute content that Agency reasonably believes may be unlawful, misleading, infringing, defamatory, unsafe, discriminatory, inconsistent with platform requirements, or damaging to Agency's reputation.

Client represents that it has lawfully collected and may lawfully disclose and use all personal information, customer lists, audience data, email addresses, telephone numbers, cookies, device identifiers, tracking data, and other information provided to Agency or uploaded to any advertising platform.

Client is responsible for providing legally sufficient privacy notices, obtaining required consents, maintaining compliant website and application privacy policies, honoring applicable consumer privacy rights, securing its systems and accounts, complying with applicable email, text-message, telemarketing, cookie, tracking, and data-protection laws, and ensuring that its websites, applications, forms, pixels, tags, analytics tools, and data practices comply with applicable law.

Client shall not provide Agency with sensitive personal information, protected health information, financial account information, children's information, biometric data, or other specially regulated data unless Agency has expressly agreed in writing and the parties have established appropriate safeguards and agreements.

Agency is not responsible for Client's privacy policies, consent mechanisms, data-collection practices, security systems, or unauthorized use of credentials or data outside Agency's reasonable control.

12. Advertising Accounts, Access, and Ownership

Unless otherwise stated in a governing agreement or Plan, Client retains ownership of advertising accounts established solely in Client's name and funded by Client, subject to the applicable platform's terms and policies.

Agency retains ownership of its proprietary processes, templates, methodologies, strategies, tools, scripts, automation systems, reporting formats, internal work product, accumulated knowledge, and other preexisting or independently developed materials.

Client does not acquire ownership of Agency's manager or umbrella accounts, licensed third-party tools or data, audiences or datasets developed from multiple sources or clients, platform-generated modeled audiences, Agency templates or internal campaign structures, or materials owned by media vendors, platforms, licensors, or subcontractors.

Following termination, Agency will provide reasonable cooperation in transferring eligible Client-owned accounts or materials, subject to platform restrictions, payment of Agency's applicable transition fees, and Client's full payment of all outstanding invoices and obligations.

Agency is not required to transfer access, files, reports, credentials, data, or campaign materials until all amounts due have been paid in full, to the extent permitted by applicable law.

13. Confidentiality

Each party shall protect the other party's nonpublic proprietary, pricing, financial, strategic, technical, operational, customer, and performance information using reasonable care and shall use such information only for purposes of the parties' business relationship.

Confidential information does not include information that is or becomes publicly available through no breach of these Terms, was lawfully known without a confidentiality obligation, is lawfully received from a third party without a confidentiality obligation, or is independently developed without use of the disclosing party's confidential information.

A party may disclose confidential information when required by law, subpoena, court order, platform requirement, audit, or governmental authority, provided that legally permissible notice is given to the other party.

Confidentiality obligations survive termination or expiration of the applicable Plan and any other agreement between the parties.

14. Client Indemnification

To the fullest extent permitted by applicable law, Client shall defend, indemnify, and hold harmless Agency and its owners, officers, directors, employees, agents, contractors, affiliates, successors, assigns, and representatives from and against third-party claims, demands, investigations, proceedings, liabilities, damages, judgments, settlements, fines, penalties, costs, and reasonable attorneys' fees arising out of or relating to:

1. Client-provided or Client-approved content, claims, products, services, instructions, data, audiences, offers, promotions, testimonials, endorsements, reviews, or intellectual property;
2. Any allegation of false or misleading advertising, infringement, defamation, violation of privacy or publicity rights, unauthorized data collection or use, unlawful communications, or failure to provide required disclosures;
3. Client's products, services, business practices, website, fulfillment, warranties, sales activities, customer relationships, or regulatory compliance;
4. Client's breach of these Terms, an approved Plan, or applicable law; or
5. Agency's execution of an approved Plan in reasonable reliance upon Client's information, instructions, representations, warranties, or approvals.

Agency shall provide Client with reasonable notice of a covered claim and reasonable cooperation at Client's expense.

Client may not settle a claim in a manner that admits wrongdoing by Agency, imposes liability or obligations upon Agency, restricts Agency's activities, or otherwise adversely affects Agency without Agency's prior written consent.

15. Limitation of Agency Liability

To the fullest extent permitted by applicable law, Agency's aggregate liability arising out of or relating to an approved Plan, campaign, or these Terms shall not exceed the Agency management fees or commissions actually paid to Agency under the applicable Plan during the six (6) months immediately preceding the event giving rise to the claim.

Media spend, production expenses, platform charges, vendor costs, taxes, and other pass-through expenses are excluded when calculating the liability limit.

In no event shall Agency be liable for indirect, incidental, special, exemplary, punitive, or consequential damages, including lost profits, lost revenue, loss of business opportunity, loss of anticipated savings, loss of goodwill, loss of data, business interruption, or reputational harm, even if advised of the possibility of such damages.

The limitations in this section do not apply to liability that cannot lawfully be limited or excluded.

16. Force Majeure

Neither party shall be liable for delay or failure to perform caused by events beyond its reasonable control, including acts of God, severe weather, fire, flood, epidemic, pandemic, war, terrorism, civil unrest, labor disputes, utility failures, internet or telecommunications failures, cyberattacks, governmental actions, changes in law, platform outages, vendor failures, supply shortages, interruption of media inventory, or similar events.

Agency may adjust campaign schedules, placements, budgets, tactics, or deliverables in response to such events.

Force majeure does not excuse Client's obligation to pay for services already performed, costs already incurred, or approved and non-cancelable commitments.

17. Governing Law, Venue, and Disputes

These Terms, each approved Plan, and any dispute arising from them shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to conflict-of-law principles.

Any legal action arising out of or relating to these Terms or an approved Plan shall be brought exclusively in the state courts located in Ottawa County, Michigan, or the federal court having jurisdiction over Ottawa County, Michigan. Each party consents to the personal jurisdiction and venue of those courts.

The prevailing party in an action to enforce these Terms or collect amounts due shall be entitled to recover its reasonable attorneys' fees and costs, to the extent permitted by applicable law.

18. General Provisions

Notices concerning termination, breach, indemnification claims, or formal disputes must be provided in writing by email, nationally recognized overnight delivery service, or certified mail to the contact information stated in the Plan or governing agreement. Operational campaign communications, approvals, and routine instructions may be provided by email or through an agreed project management or communication platform.

If any provision of these Terms is determined to be invalid, unlawful, or unenforceable, that provision shall be modified to the minimum extent necessary to make it enforceable. If modification is not possible, the provision shall be severed, and the remaining provisions shall continue in full force and effect.

A party's delay or failure to enforce any provision of these Terms does not waive that provision or the right to enforce it later. A waiver is effective only if made in writing and applies only to the specific circumstance for which it is given.

Client may not assign or transfer an approved Plan, these Terms, or any related rights or obligations without Agency's prior written consent. Agency may assign these Terms or an approved Plan to an affiliate, successor, purchaser of substantially all of Agency's assets, or entity resulting from a merger, acquisition, restructuring, or change of control.

Campaign-specific modifications must be approved in writing by the parties' authorized representatives. Agency may update these Terms periodically. Updated Terms will apply prospectively to Plans approved after the stated effective date unless Client and Agency expressly agree otherwise in writing.

No purchase order, vendor form, email footer, or other Client-issued document shall modify these Terms or add obligations to Agency unless Agency expressly accepts the modification in a written document signed by an authorized Agency representative.

These Terms, the applicable approved Plan, and any governing Agency of Record agreement, master services agreement, or other written agreement constitute the parties' complete agreement concerning the applicable media campaign and supersede prior or contemporaneous discussions, representations, proposals, or communications concerning that campaign.

Client acknowledges that it has not relied upon any promise, representation, warranty, or guarantee not expressly stated in the applicable written agreements.

Provisions concerning payment obligations, non-cancelable commitments, cancellation charges, confidentiality, intellectual property, account ownership, data and privacy, indemnification, limitation of liability, dispute resolution, governing law, collection costs, and any other provisions that by their nature should survive shall survive the expiration or termination of a Plan or any other agreement between Agency and Client.

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