

## TERMS AND CONDITIONS FOR SERVICES

### 1. APPLICABILITY.

- a. These terms and conditions of service (these "**Terms**") are the only terms which govern the sale of the services defined on the Service Order ("**Services**") between Buy Box Experts, LLC ("**Seller**") and you as the customer ("**Customer**").
- b. All Services are subject to approval and acceptance by Seller in its sole and absolute discretion and the Service Order shall only become binding on Seller after approved by Seller's authorized representative (the "**Service Confirmation**"). Seller reserves the right to accept or reject Services, without any liability to Customer. Customer will not be charged for the Services until after the Service Confirmation.
- c. The Service Confirmation and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral.
- d. Notwithstanding anything to the contrary contained in this Agreement, Seller may, from time to time change the Services without Customer's consent provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Service Confirmation.

2. **SERVICES TO BE PERFORMED:** Seller will provide the Services set forth in the Service Confirmation. Seller shall use reasonable efforts to meet any performance dates to render the Services specified in the Service Confirmation, and any such dates shall be estimates only. With respect to the Services, Customer will (i) cooperate with Seller in all matters relating to the Services and provide such access as may reasonably be requested by Seller for the purposes of performing the Services; (ii) respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform Services in accordance with the requirements of this Agreement; (iii) provide such materials or information as Seller may reasonably request to carry out the Services in a timely manner and ensure that such materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or Customer's agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

3. **PAYMENT FOR SERVICES RENDERED:** In exchange for the Services, Customer agrees to pay Seller in accordance with the Service Confirmation. Full payment is due prior to Seller beginning the work on the Services. This is a non-refundable payment unless agreed upon by both parties. Late payment, returned, declined or insufficient funds may be subject to being turned over to third party collections companies. Customer will be responsible for paying any and all fees associated with the collection of unpaid balances owed to Seller including third party collections agency fees, attorney fees, late fees, etc. All prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Customer will be responsible for all such charges, costs and taxes.

4. **DISCLAIMER OF WARRANTIES: SELLER MAKES NO WARRANTY, EXPRESS, IMPLIED OR**

**STATUTORY, WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF RELIABILITY, USEFULNESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THOSE ARISING FROM THE COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. SELLER DOES NOT GUARANTEE SERVICE RESULTS. SELLER'S PERFORMANCE OF THE SERVICES RELIES UPON ACCESS TO AMAZON'S NETWORKS, ONLINE MARKETPLACE, DATA SITES, WEB SERVICES, CLOUD COMPUTING, CUSTOMER PORTALS, SYSTEMS AND SERVERS (COLLECTIVELY "AMAZON'S NETWORK"). SELLER MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SECURITY, RELIABILITY, ACCESS, HOSTING, CONNECTIVITY, RELIABILITY OR AVAILABILITY OF AMAZON'S NETWORK, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF RELIABILITY, USEFULNESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THOSE ARISING FROM THE COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. SELLER DOES NOT GUARANTEE, IN ANY MANNER, AMAZON'S NETWORK.**

By checking the box indicating that Customer "ACCEPTS" or "AGREES" to this Agreement, Customer acknowledges that Seller does not own or govern the actions of Amazon's Network or any online marketplace. Customer also acknowledge that due to fluctuations in the relative competitiveness of some search terms within a given marketplace, recurring changes in the search algorithms, and other competitive factors, it is impossible to guarantee, and Seller does not guarantee product search or advertising rankings.

- 5. LIMITATIONS OF LIABILITY: NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR THE LOSS OF PROFIT, REVENUE, USE, DATA OR DIMINUTION IN VALUE ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY WILL BE CUMULATIVELY LIABLE TO THE OTHER FOR AN AMOUNT GREATER THAN THE AMOUNT PAID BY CUSTOMER TO SELLER IN THE PRECEDING 30 DAY PERIOD. THE PROVISIONS OF THIS SECTION ARE MUTUAL LIMITATIONS TO ALLOCATE RISKS AMONG COMMERCIAL PARTIES, EACH IS SEPARATE FROM THE OTHERS AND FROM THE REMEDY LIMITATIONS AND EXCLUSIONS SET FORTH ELSEWHERE IN THIS AGREEMENT, AND EACH WILL SURVIVE AND APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF A REMEDY.**

**CUSTOMER COVENANTS AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER AND ITS OFFICERS, DIRECTORS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, DAMAGES, CLAIMS, LOSSES, COSTS, PENALTIES, FINES, AND EXPENSES (INCLUDING ATTORNEYS FEES) ARISING OUT OF OR RESULTING, DIRECTLY OR INDIRECTLY, FROM ANY ACTION TAKEN BY SELLER AT CUSTOMER'S REQUEST OR DIRECTION, OR ANY ACTION TAKEN BY SELLER THAT IS EXPRESSLY APPROVED BY CUSTOMER, INCLUDING WITHOUT LIMITATION, ACTIONS BY SELLER AGAINST OR INVOLVING THIRD PARTY SELLERS OR AMAZON CUSTOMERS. CUSTOMER'S OBLIGATIONS HEREUNDER SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

- 6. CONFIDENTIALITY: The parties acknowledge that, in the course of performing the responsibilities and obligations under this Agreement, they each may be exposed to or acquire information that is confidential**

and/or proprietary to the other party (the "Confidential Information"). The parties agree to hold such Confidential Information as defined in this paragraph in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer, give, or otherwise disclose such information to third parties, other than affiliates, agents, or contractors who are under the same confidentiality obligations to either of the parties as defined herein or to use such information for any purpose whatsoever, without the express written permission of the other party, other than for the provision of services hereunder.

- a. The parties shall use their reasonable efforts to assist each other in identifying and preventing any unauthorized use or disclosure of any Confidential Information and will safeguard the confidentiality of all such Confidential Information with at least the same degree of care as each would use to protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care.
- b. The parties agree to advise each of their employees, agents, contractors, and representatives of their obligations to keep and protect such Confidential Information.
- c. Without limitation of the foregoing, the parties shall use reasonable efforts to advise each other immediately in the event that a party learns or has reason to believe that any person who has access to Confidential Information has violated or intends to violate the terms of this Agreement, and will reasonably cooperate in seeking injunctive relief against any such person.
- d. The terms of this Agreement shall remain confidential.
- e. Confidential Information shall not include information which:
  - i. at the time disclosed or obtained is in the public domain;
  - ii. after being disclosed or obtained becomes part of the public domain through no act, omission, or fault of a party or its personnel;
  - iii. was in the other party's possession at the time of disclosure or receipt and was not acquired, directly or indirectly, under an obligation of confidence; or
  - iv. the party demonstrates that the Confidential Information was received by it from a third party after the time it was disclosed or obtained hereunder and was not acquired by the third party, directly or indirectly, from the party or from the personnel of the party under an obligation of confidence hereunder.
- f. The duties in this paragraph and sub-paragraphs shall survive the termination of this Agreement for a period of two (2) years.

## 7. INTELLECTUAL PROPERTY:

- a. **Seller Property.** As between Seller and Customer, all right, title, and interest in and to the business information, specifications, sourced text, copy, prose, infographics, keywords, sales information, software, systems, data, files, drawings, artwork, images, licenses, proposals or materials used, developed, or created by Seller or provided by Seller to Customer in the course of performance hereunder, excluding any Deliverables (defined below), are and shall remain at all times with Seller ("**Seller Property**"). Customer agrees to promptly return any Seller Property on the termination of this Agreement. Prior to returning the Seller Property, Customer is prohibited from creating any copies.

- b. Deliverables & Customer Property. Seller will render Services and deliver the finished work product, reports and other deliverables, including without limitation, final versions of creatives, artwork, written text copy, infographics, keywords, documentation, etc. required to be created and delivered by Seller (collectively, "**Deliverables**") in accordance with this Agreement. For clarity, the Deliverables only include the finished work product and final versions delivered by Seller and shall not include any drafts, work-in-progress, partial or incomplete work, modifications, revisions or variations, files, images and materials not included in the finished Deliverables, all such materials shall not be considered and do not qualify as works made for hire. Except as set forth in this section, all right, title, and interest in and to all Deliverables, including all rights in copyrights or other intellectual property rights pertaining thereto, shall be held by Customer, and all Deliverables shall be considered "works made for hire" by Seller for the benefit of Customer. Seller hereby assigns, transfers, and conveys to Customer all right, title, and interest in all such Deliverables. As between Customer and Seller, all right, title, and interest in and to all software, systems, data or materials provided by Customer to Seller in the course of performing Services are and shall remain at all times Customer's.
  - c. In order to perform Services, Seller may require access to Customer's name, brands, logos, trade names, trademarks, trade dress, domain names, photography, images, infographics, written text, keywords, sales information or other information or copyrighted materials from Customer ("**Customer Materials**"). Customer hereby grants to Seller a non-exclusive, non-transferable, internal-use license during the term of this Agreement, to use the Customer Materials solely as required by Seller to perform Services, and to share such Customer Materials solely with those Seller employees with a need to know, and in all instances, in strict accordance with the confidentiality provisions herein. During and after the term of this Agreement, Customer hereby grants to Seller a non-exclusive, non-transferable, limited, royalty-free license to use the Deliverables and Customer Materials for internal use and marketing purposes, and other purposes approved in writing by Customer, provided that any Deliverables or Customer Materials used for marketing purposes will be clearly and properly identified as the copyrighted property of Customer.
8. NON-SOLICITATION: Notwithstanding any other provision of this Agreement, for a period of one (1) year following the termination or expiration of this agreement, neither party shall solicit for employment, or advise or recommend to any other person that such other person solicit for employment, any person on the "Project Team" or any person employed or under contract (whether as a consultant, employee or otherwise) by or to either party without the prior written consent of the other party.
9. MISCELLANEOUS PROVISIONS: The parties agree to the following provisions:

  - a. Entire Agreement: This Agreement and Service Confirmation constitutes the entire Agreement between the parties and supersedes any prior written or oral agreements concerning the subject matter contained herein, except where the parties may have a separate Non-Disclosure Agreement ("**NDA**"), in which case such NDA may be deemed to be incorporated into this Agreement. In the event that the terms of this Agreement and such NDA are in conflict, this Agreement shall prevail. This Agreement may be amended only by the written consent of the parties.
  - b. Severability: If any provision of this Agreement or its addenda is found to be illegal, void, or unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions of this Agreement.
  - c. No Agency / Partnership: Nothing in this Agreement will be construed as creating a partnership, joint

ventures, agency, employer/employee relationship, or legal representation by one party for or with the other party. Neither party is authorized to hold itself out to any third party as an authorized representative of the other party or to have any authority to make any statements, representations, or commitments of any kind or to take any action that is binding on the other, except as provided for in this Agreement or authorized in writing separately by the party to be bound.

- d. **TERMINATION.** In addition to any remedies that may be provided under this Agreement, Seller may terminate this Agreement with immediate effect upon written notice to Customer, if Customer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with this Agreement, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against Customer proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.
- e. **Waiver:** Failure by either party to enforce any provision(s) of this Agreement will not be construed as a waiver of any provision or right in full or in part. No waiver of any breach or default of this Agreement by any party hereto shall be considered to be a waiver of any other breach or default of this Agreement.
- f. **Acceptance / Counterparts:** By clicking the “**AGREE**” or “**ACCEPT**” button, Customer acknowledges and agrees that Customer has read, understands and agrees to all of the terms of this Agreement. This Agreement shall not become a binding Agreement on the parties until the Service Confirmation is accepted by Seller and Customer’s full payment is received. This Agreement may be executed or agreed to in any number of counterparts, all of which will constitute a single Agreement. Electronic acceptance or signatures will have the same force and effect as original signatures. Any modification of or amendment to any provision contained in this Agreement will be effective only if the modification or amendment is in writing and signed by both parties.
- g. **Inconsistencies:** In the event of any inconsistency between this Agreement and any invoice or ordering document, the terms and conditions of this Agreement will control.
- h. **Notices:** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Service Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission and receipt), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
- i. **Assignment:** Neither party may assign or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the other party, which may be withheld in its sole discretion; provided, however, that Seller may, without Customer’s consent, assign its rights under this Agreement if such assignment is to a successor of Seller by consolidation, merger, or operation of law, or to a purchaser of all or substantially all of Seller’s assets. Except as provided herein, any attempted transfer or assignment of this Agreement without the prior written consent of the other party will be null and void ab initio. This Agreement will be binding upon and will insure to the benefit of the permitted successors and assigns of each party to this Agreement.

- j. **Governing Law:** This Agreement will be governed by and construed in accordance with the laws of the State of Utah. The appropriate venue for any legal action shall be in state or federal courts located in Salt Lake City, Utah having jurisdiction over the matter in dispute and each such party agrees to voluntarily appear in such forum and submit to its jurisdiction and agrees to not complain as to its convenience. In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.
  
- k. **Force Majeure:** Seller shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of thirty (30) days, Customer will be entitled to give notice in writing to Seller to suspend this Agreement until Seller may resume performing this Agreement.
  
- l. **Captions:** Titles or paragraph headings in this Agreement are solely for convenience of reference and are not intended and shall not be deemed to modify, explain or place any construction on any provision of this Agreement.