

Terms and Conditions

By executing a Scope of Work (as defined below) subject to these Terms and Conditions (“Agreement”) AOR, INCORPORATED, a Colorado corporation (“AOR”), and the client identified in the Scope of Work (“Client”) (each a “Party” and together the “Parties”) agree to be bound by this Agreement as of the date of the applicable Scope of Work (“Effective Date”). This Agreement governs Client’s purchase and AOR’s provision of the Services and Deliverables (as both are defined below) as more fully as described in the applicable Scope of Work. In the event of a conflict between the terms of this Agreement and a Scope of Work, the terms of this Agreement will govern except where the terms of a Scope of Work expressly state otherwise.

- 1. Description of Services:** AOR agrees to perform marketing activities (“Services”) outlined in the applicable scope of work (“Scope of Work”), attached hereto and incorporated herein by reference.
- 2. Term of Agreement:** The term of this Agreement commences on the Effective Date and continues until AOR’s completion of the Services in the applicable Scope of Work, unless it is earlier terminated in accordance with Section 13 of this Agreement (“Term”).
- 3. Compensation:** AOR will invoice Client in accordance with the Scope of Work for all fees and expenses incurred, and Client shall make full payment within 30 days of the date of the invoice. The fees listed in the applicable Scope of Work exclude all applicable sales, use, and other taxes, attributable to any use by Client of the Services. Client shall notify AOR in writing of any dispute with an invoice within 30 days from the date of such invoice. Client will be deemed to have accepted all invoices for which AOR does not receive timely notification of dispute. Except for properly noticed disputes, if Client fails to pay timely, AOR reserves the right, in addition to any other rights it may have, to suspend the Services and charge interest on the amount past due at the lesser of 1.5% per month or the maximum allowed by law. Any late fees shall be in addition to the amount originally invoiced.
- 4. Out-of-Pocket Fees:** In addition to the fees for Services, Client agrees to reimburse AOR for all reasonable out-of-pocket expenses incurred by AOR in connection with the performance of the Services. Client also agrees to reimburse AOR for all pre-approved travel expenses incurred by AOR in connection with the performance of the Services, provided that such expenses will be charged at an hourly rate, and mileage will be calculated based on rates determined by the Internal Revenue Service.
- 5. Commitments to Third Parties:** If included in the applicable Scope of Work, AOR shall be responsible for the purchase of certain third-party products or services on Client’s behalf, including but not limited to products or services such as TV or radio production, press release distribution, printing, talent, and photography (“Third Party Services”). AOR shall pass on any expenses incurred for Third Party Services directly to Client. If Client fails to remit payment to AOR for Third Party Services, then AOR may discontinue paying for such Third Party Services, and AOR assumes no responsibility for any delay or suspension of Third Party Services that Client may experience. Upon receipt of Client’s written notice, AOR shall promptly take action to cancel or terminate any previously authorized Third Party Services. Client understands that AOR does not provide any Third Party Services directly, and Client shall hold AOR harmless with respect to any and all disputes regarding the provision of Third Party Services.
- 6. AOR Obligations:** AOR shall use commercially reasonable efforts to provide the Services: (a) in accordance with the terms and subject to the conditions set forth in the applicable Scope of Work and this Agreement; (b) using personnel of required skill, experience, and qualifications; and (c) in a workmanlike and professional manner.
- 7. Client Obligations:** Client shall cooperate with AOR and take all actions reasonably necessary to enable AOR to perform the Services. To that end, Client shall provide, on a timely basis, all information, documents, samples (collectively, “Client Materials”), as well as access to systems and personnel, as reasonably requested by AOR, to enable AOR to provide the Services. Client agrees that its failure to cooperate with AOR or to respond to an AOR

request within 30 days may result in an additional restart fee of \$500.00. If AOR is required to reschedule any Services due to the foregoing, then Client understands that such rescheduling will be dependent upon AOR's resource availability and may result in additional charges.

- 8. Confidentiality:** During the Term, either Party (as the "Disclosing Party") may disclose or make available to the other party (as the "Receiving Party") information about its business, services, confidential information, materials comprising or relating to intellectual property, trade secrets, and other sensitive or proprietary information, as well as the terms of this Agreement, whether orally or in written, electronic or other form and whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information does not include information that, at the time of disclosure and as established by documentary evidence: (a) is or becomes generally available to and known by the public other than as a result of any breach of this Section by the Receiving Party; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of the Receiving Party or its Representatives prior to being disclosed by or on behalf of the Disclosing Party; (d) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information; or (e) is required to be disclosed pursuant to applicable law. The Receiving Party shall during the Term and for 1 year after the expiration or Termination of this Agreement: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person, except to the Receiving Party's representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. The Receiving Party shall be responsible for any breach or violation of this Section caused by any of its representatives. At any time during or after the Term, at the Disclosing Party's written request, the Receiving Party shall promptly return all Confidential Information and copies thereof that it has received under this Agreement.
- 9. Intellectual Property Rights:** Client represents and warrants that Client is and shall remain, the sole and exclusive owner of all right, title to, and interest in all Client Materials, including all intellectual property rights therein. Client further represents and warrants that all Client Materials provided to AOR for use as permitted in this Agreement do not and will not infringe or violate the publicity rights, privacy rights, or intellectual property rights of any third party. AOR shall have no right or license to use any Client Materials, except that Client does hereby grant AOR a limited license during the Term to use the Client Materials to the extent necessary to provide the Services to Client. Except as set forth below, and in exchange for the fees, Client owns all worldwide right, title to, and interest in all written, graphic, coded, audio, and visual materials and other work product in final, finished format that are delivered to Client under this Agreement (collectively, the "Deliverables"). Notwithstanding the foregoing, AOR has the right to display all Deliverables, even if those Deliverables include Client Materials, within the AOR portfolio or in AOR's promotional materials. Notwithstanding anything to the contrary, Client will not acquire, and AOR will not assign, any right, title to or interest in any of AOR's methodologies or any text, data, code, software, or other materials including all associated intellectual property rights that were owned by, or licensed to, AOR prior to AOR's performance of the Services ("Pre-existing IP") or to any new knowledge, techniques, methodologies, code or software, including all associated intellectual property rights developed by AOR in the performance of the Services and the creation of the Deliverables. For clarity, as between AOR and Client, AOR shall be the sole and exclusive owner of all Pre-existing IP and any new knowledge, techniques and methodologies including all associated intellectual property rights developed by AOR in the performance of the Services and the creation of the Deliverables regardless of whether any such items are included within any Deliverables.

- 10. License Grant:** If a Deliverable includes any Pre-existing IP or other AOR items as detailed in Section 9, AOR hereby grants (or passes along) to Client a perpetual, nonexclusive, royalty-free license to use such Pre-existing IP or other AOR items as detailed in Section 9 for Client's business purposes. AOR disclaims responsibility for any limitations on the use and ownership of Deliverables by virtue of the rights of third parties. AOR shall not be held liable, financially or otherwise, for any errors, oversights, color corrections, photo manipulations, quality concerns, or production-related issues that may subsequently be found in Deliverables that have been released to Client, or that arise during Client's use of these files. AOR shall retain electronic copies of the Deliverables for a maximum timeframe of two (2) years following the expiration or termination of this Agreement and Client may access these stored Deliverables for an additional Fee at a rate of \$150 per hour.
- 11. Transfer of Responsibility:** Upon Client's compliance with the terms of Section 3 of this Agreement, at any time during the Term AOR shall provide final digital files of the Deliverables to Client upon Client's written request. Once AOR transfers such files, AOR is not liable, financially or otherwise, for any errors, oversights, color corrections, photo manipulations, quality concerns, or production-related issues that may subsequently be found in such files, or that arise during use of these files. If Client requests that AOR adjust any Deliverables after they have been transferred to Client, then depending on AOR's resource availability, AOR may provide such additional services for an additional Fee at a rate of \$150 per hour.
- 12. No Other Representations:** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO THE SERVICES OR DELIVERABLES. AOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.
- 13. Termination of Agreement:** Either Party may terminate, in whole or in part, this Agreement or a Scope of Work for convenience upon 60 days' prior written notice to the other Party. Additionally, either Party may terminate this Agreement or a Scope of Work due to the other Party's breach of any of its obligations that remain uncured after 10 days' notice from the non-breaching Party. If this Agreement is terminated by either Party, Client shall be liable for payment to AOR of all fees and expenses incurred as a result of Services performed prior to the effective date of the termination. In the event of invoked legal proceedings, the prevailing Party shall be entitled to reasonable attorneys' fees. Termination for cause will not preclude the non-breaching Party from pursuing any and all remedies available to it at law or in equity.
- 14. Effects of Termination:** Subject to Section 9, upon the expiration or termination of this Agreement or an applicable Scope of Work, (a) AOR shall provide Client access to the WordPress server through a file transfer protocol ("FTP") to enable Client to access or modify the website on which AOR had performed Services ("Website"), (b) Client shall immediately assume all responsibilities related to the Website, including but not limited to: all costs associated with the Website, all Website content, the Website's security, maintenance of the Website, all user accounts associated with the Website, all files transferred through the FTP, and any corruption of or loss of any data, information, or content contained in any files transferred through the FTP, and (c) Client shall pay all Fees for Services rendered and for all of AOR's incurred expenses prior to the effective date of the expiration or termination.
- 15. Client Indemnification:** Client shall defend, indemnify, and hold AOR harmless from any and all damages, liabilities, costs, and expenses (including, but not limited to reasonable attorneys' fees) incurred by AOR with respect to any third-party claim arising out of (a) AOR's use of and/or reliance on any Client Materials or other information, materials, or data provided to it by Client, including information, materials, or data used to substantiate claims made in advertising, (b) Client's breach of any representation, warranty, or other obligation in this Agreement, (c) Client's gross negligence or willful misconduct in connection with the performance of its obligations under this Agreement, and (d) any Client actions described in Section 16(i)-(vi).

- 16. AOR Indemnification:** AOR shall defend, indemnify, and hold Client harmless from any and all damages, liabilities, costs, and expenses (including, but not limited to reasonable attorneys' fees) incurred by Client with respect to any third-party claim arising out of (a) the infringement or violation of any intellectual property rights of a third party related to the Deliverables developed by AOR, and (b) AOR's gross negligence or willful misconduct in connection with the performance of its obligations under this Agreement. Notwithstanding the forgoing in subsection (a), AOR shall have no obligation or liability with respect to any third party infringement or violation claim based upon: (i) any Deliverable which has been altered, modified, or revised by Client or at the request or instruction of Client; (ii) the configuration of the Deliverable by AOR at the request or instruction of Client and/or by anyone other than AOR; (iii) the combination, operation, or use of any Deliverable with other products (including, without limitation, Third Party Materials or Third Party Services) when such combination is part of any allegedly infringing process; (iv) failure of Client to implement any update or upgrade provided by AOR that would have prevented the claim; (v) unauthorized use of the Deliverable; or (vi) use by Client (after receiving notice from AOR) of any outdated version of any Deliverable that is no longer updated or upgraded by AOR.
- 17. Indemnification Procedures:** A Party seeking indemnification under this Agreement (the "Indemnified Party") shall give the Party from whom indemnification is sought (the "Indemnifying Party"): (a) prompt written notice of the relevant claim; provided, however, that failure to provide such notice shall not relieve the Indemnifying Party from its liability or obligation hereunder except to the extent of any material prejudice directly resulting from such failure; and (b) reasonable cooperation in the defense of such claim. The Indemnifying Party shall have the right to control the defense and settlement of any such claim; provided, however, that the Indemnifying Party shall not, without the prior written approval of the Indemnified Party, settle or dispose of any claims in a manner that affects the Indemnified Party's rights or interest. The Indemnified Party shall have the right to participate in the defense at its own expense.
- 18. Limitation of Liability:** NEITHER CLIENT NOR ITS EMPLOYEES, OFFICERS AND DIRECTORS, ON THE ONE HAND, NOR AOR AND ITS EMPLOYEES, OFFICERS AND DIRECTORS AND LICENSORS, ON THE OTHER HAND, WILL BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT FOR COMMERCIAL LOSS AND LOST PROFITS OR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES, OR ANY OTHER SIMILAR DAMAGES UNDER ANY THEORY OF LIABILITY WHETHER IN CONTRACT, TORT OR STRICT LIABILITY, HOWEVER CAUSED AND REGARDLESS OF LEGAL THEORY OR FORESEEABILITY, DIRECTLY OR INDIRECTLY, ARISING UNDER THIS AGREEMENT. EXCEPT FOR A PARTY'S BREACH OF SECTION 8, A PARTY'S INDEMNIFICATION OBLIGATIONS, OR CLAIMS FOR A PARTY'S GROSS NEGLIGENCE OR MORE CULPABLE CONDUCT, IN NO EVENT SHALL THE LIABILITY OF AOR EXCEED THOSE FEES PAID OR PAYABLE TO AOR BY CLIENT UNDER THE APPLICABLE SCOPE OF WORK.
- 19. Subcontractors:** AOR reserves the right to employ subcontractors to assist AOR when providing any part of the Service, provided, however, AOR will remain liable to Client with respect to any contracted Service to the extent AOR would be liable to Client under the terms of this Agreement and the Scope of Work.
- 20. Assignment:** AOR may assign or transfer any of its rights or obligations under this Agreement to a third party without the express written consent of Client; however, Client may not assign or transfer any of its rights or obligations under this Agreement to a third party without the express written consent of AOR, such consent not to be unreasonably delayed, conditioned or withheld.
- 21. No Third Party Beneficiaries:** No term or provision of this Agreement is intended to be, nor will be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such third party will have any right or cause of action hereunder.
- 22. No Exclusivity:** AOR retains the right to perform the same or similar type of services for third parties during the Term.
- 23. Survival:** The terms in Sections 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 18, and 28 will continue in full force and effect following the Termination Date.

- 24. Governing Law:** This Agreement shall be interpreted in accordance with the laws of the State of Colorado, and Client hereby and herein submits to the jurisdiction of the Courts of Denver County, Colorado.
- 25. Notice:** Notices required under this Agreement will be in writing and delivered in person or sent by overnight courier addressed to the addresses in the Scope of Work. Notice will be effective when sent by overnight courier or upon delivery if delivered in person.
- 26. Waiver and Modification:** Any waiver, amendment or other modification of any provision of this Agreement will be effective only if in writing and signed by the Parties.
- 27. Additional Policies:** In addition to this Agreement, Client agrees to be bound by the AOR Privacy Policy (available at <https://www.thinkaor.com/aor-data-privacy-terms-and-conditions>) and the AOR Website Accessibility Addendum (available at <https://www.thinkaor.com/aor-ada-website-accessibility>).
- 28. Entire Agreement:** This Agreement, including all exhibits and the applicable Scope of Work which are incorporated herein by reference, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous understandings or agreements, written or oral, regarding such subject matter.
- 29. Severability:** If any provision of this Agreement is held illegal, invalid, or unenforceable, such holding shall not affect any other provision hereof. In the event any provision is held illegal, invalid, or unenforceable, such provision shall be limited so as to give effect to the intent of the Parties to the fullest extent permitted by applicable law.
- 30. Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile and electronic signatures shall be treated as originals.
- 31. Disputes:** Client and AOR will attempt to settle any claim or controversy arising out of this Agreement through consultation and negotiation in good faith and the spirit of mutual cooperation. If those attempts fail, then the dispute will be submitted for non-binding mediation conducted by a mutually acceptable mediator in Denver County, Colorado. The mediator will be chosen by mutual agreement of AOR and Client within 21 days after written notice by either party demanding mediation. In no event will either party unreasonably withhold or delay consent to the selection of a mediator. Client and AOR will equally share the costs of the mediation. Any dispute that cannot be resolved between the Parties within forty-five (45) days of the date of the initial demand for mediation by one of the Parties may then be submitted for resolution to the state and federal courts sitting in Denver County, Colorado. The use of any dispute resolution procedures will not be construed under the doctrines of laches, waiver, or estoppel to affect adversely the rights of either Party.