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**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



**Advertising
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The Leadership Companies, Inc.
"Pledged to Customer Success"

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**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



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This product is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that The Leadership Companies, Inc. is not engaged in rendering legal, accounting, or professional service. If legal advice or other expert assistance is required, professional services should be sought.

Contained in this document are the principal terms and conditions which should be considered in preparing and drafting contracts. Some of the sections and clauses may not be applicable to a particular transaction or be required or appropriate in a particular jurisdiction. They should be scrutinized by the drafter to determine their applicability to the document being created.

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The Leadership Companies, Inc.
42 Davis Road
Acton, Massachusetts 01720

ADVERTISING SERVICES

Agreement Between

(Seller's Company Name)

and

(Your Company Name)

Agreement Number: _____

Agreement Period: _____ To _____

Signatures: The undersigned agree that this document, consisting of _____ pages and Exhibits _____ through _____ attached, is intended by the parties as the final expression of their agreement and is the complete and exclusive statement of the terms and conditions.

Your Company's Name

Seller's Company's Name

Authorized Representative

Authorized Representative

Signature

Signature

Date

Date



1. INTRODUCTION

- 1.1 This Agreement and all attachments (called the "Agreement") is made by _____ ("BUYER") and _____ ("SELLER"). BUYER's worldwide subsidiaries may place orders under this Agreement. SELLER shall mean its employees, agents, and subcontractors. The Terms and Conditions herein exclusively govern the purchase and sale of SERVICES described in Exhibit A Scope attached hereto and incorporated herein by reference.
- 1.2 This Agreement is the complete and entire understanding between the parties on this subject matter and supersedes all prior agreements, discussions, proposals, representations, statements, or understandings whether written or oral. The provisions of this Agreement may be amended or waived only by a writing executed by authorized representatives of both parties hereto.
- 1.3 SELLER, including its agents and employees, is an independent contractor and not an agent or employee of BUYER. SELLER is NOT authorized to represent and BUYER expressly disclaims any liability resulting from such misrepresentation.
- 1.4 In the event that either party to this Agreement shall, on any occasion, fail to perform any provision of this Agreement, and the other party does not enforce that provision, the failure to enforce shall not prevent enforcement of the provision on any other occasion.
- 1.5 If any term of this Agreement conflicts with any term of an issued Purchase Order, this Agreement shall supersede the Purchase Order.
- 1.6 The term DAYS, when used in the Agreement, shall mean business days, unless otherwise noted as calendar days.



- 1.7 Except as expressly provided otherwise, BUYER accepts no liability for any expenses, losses, or action incurred or undertaken by SELLER as a result of work performed in anticipation of purchases of said goods or services by BUYER.
- 1.8 This Agreement does not specify a quantity of goods or services to be purchased by BUYER, NOR DOES THIS AGREEMENT OBLIGATE BUYER TO PURCHASE ANY goods or services. All such quantities will be specified on BUYER's order(s) as defined in the Section on Purchase Orders, issued under the provisions of this Agreement and incorporated herein by reference.

2. PURCHASE ORDERS

- 2.1 This term "Purchase Order" shall mean BUYER's written Purchase Order form and/or Purchase Orders transmitted electronically and any documents incorporated therein by reference.
- 2.2 BUYER will order goods or services by issuing telex, facsimile, telephonic orders, or written Purchase Orders. BUYER will issue confirming written Purchase Orders within five (5) days after issuing such telex, facsimile, or telephonic orders.
- 2.2A BUYER will order goods or services by issuing telex, facsimile, telephonic orders, or written Purchase Orders. BUYER will issue confirming written Purchase Orders within five (5) days after issuing such telex, facsimile, or telephonic orders. For Purchase Orders transmitted electronically, SELLER shall notify BUYER within one (1) day of receipt of a Purchase Order that SELLER has received such a Purchase Order in a readable and understandable format. The parties acknowledge that written Purchase Orders will not be issued for Purchase Orders transmitted electronically. The parties further agree not to contest the validity or enforceability of Purchase Orders transmitted electronically under the provisions of applicable law requiring that contracts be in writing and signed by the party to be bound.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

- 2.3 Each Purchase Order will specify items such as: goods or services, quantity, delivery schedule, destination, total price of the Purchase Order. Each Purchase Order issued under this Agreement shall be made part of, and be incorporated into this Agreement, and shall reference this Agreement number on the face of each Purchase Order. Should any Purchase Order not conform to or satisfy the terms of this Agreement, SELLER shall have five (5) days after receipt to reject the Purchase Order. By not rejecting the Purchase Order within five (5) days, SELLER will have accepted the Purchase Order. Acceptance by SELLER is limited to the provisions of the Agreement and the Purchase Order. No additional or different provisions proposed by SELLER shall apply. In addition, the parties agree that this Agreement and issued Purchase Orders constitute a contract for the sale of goods and/or services and satisfy all statutory and legal formalities of a contract.
- 2.4 BUYER shall use its best efforts not to issue individual Purchase Orders for the purchase of goods or services with an invoice value of less than _____dollars.

3. AGREEMENT PERIOD

- 3.1 The period during which BUYER may issue Purchase Orders under this Agreement (Agreement Period) shall last three (3) years, beginning on _____ (Effective Date) and ending on _____ (Expiration Date) unless otherwise extended by mutual written consent by both parties.
- 3.1A The period during which BUYER may issue Purchase Orders under this Agreement (Agreement Period) shall begin on _____ (Effective Date) and shall continue so long as both parties perform in accordance with this Agreement. This Agreement will terminate upon mutual written agreement by both parties or as otherwise provided in the Termination section.



4. PRICING FOR SERVICES

- 4.1 The prices for services are set forth in Exhibit A Scope and shall remain fixed for the period set forth therein (Pricing Period). Thirty (30) days prior to the end of the current Pricing Period, BUYER and SELLER shall review the Pricing and Scope for the next Pricing Period. Should BUYER and SELLER reach agreement, a new Exhibit A Scope will be written for the next Pricing Period and shall be added as an amendment to this Agreement. If BUYER and SELLER do not reach an agreement on the next Pricing Period, this Agreement shall end the current Pricing Period.
- 4.1A The prices for services are set forth in Exhibit A Scope and its amendments, and shall remain fixed during the Agreement Period and any extension thereof.
- 4.2 SELLER represents that prices established in Exhibit A Scope to be paid by BUYER, shall not exceed the prices charged to any other customer of SELLER for services which are the same or substantially similar to these services, taking into account the quantities and terms of this Agreement. Moreover, SELLER agrees to refund any excess amounts paid by BUYER.

5. DELIVERY OF SERVICES

- 5.1 TIME IS OF THE ESSENCE OF ALL PURCHASES MADE UNDER THIS AGREEMENT. BUYER's Purchase Orders shall state the dates for SELLER's committed delivery or performance of services thereunder.
- 5.2 If at any time SELLER has reason to believe that delivery of services will not be completed by the date specified, SELLER shall immediately notify the BUYER of the cause and duration of the anticipated delay. If the delay is due to causes within

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

SELLER's reasonable control, or due to SELLER's failure in any respect to fulfill its obligations with promptness and diligence, or if the progress of deliveries or performance is such that, in BUYER's opinion, SELLER's performance or completion as committed is improbable, BUYER may, at its option, require SELLER to do all things necessary (including working overtime or extra shifts, all at SELLER's expense) to deliver or perform as committed, or may cancel the Purchase Order(s) without liability to BUYER.

- 5.3 The period between issuance of BUYER's Purchase Orders and SELLER's delivery or performance of services thereunder ("Leadtime") shall be as specified in Exhibit A Scope.
- 5.4 BUYER, without cost or liability, may reschedule delivery or performance of services, or may cancel Purchase Orders for services in whole or in part, by giving timely notice as specified in Exhibit B - Reschedule and Cancellation Notice Period, attached hereto and incorporated herein by reference.

6. QUALITY OF SERVICES

- 6.1 SELLER shall perform all services in strict accordance with this Agreement and BUYER's Purchase Orders issued hereunder. Services shall be deemed non conforming if SELLER fails to comply in any respect with BUYER's specified requirements. Any non conforming services shall be remedied as mutually agreed to by the parties.
- 6.2 SELLER represents to BUYER that it is experienced in and thoroughly familiar with all aspects of the services required hereunder and is properly qualified as applicable and is equipped, organized, and financially able to perform the services.
- 6.3 No changes in the services to be provided by SELLER under this Agreement shall be made without BUYER's prior written approval.



7. PAYMENT

- 7.1 BUYER shall forward payment thirty (30) calendar days after the later of the scheduled completion or delivery date, or the receipt of a correct invoice which references BUYER's purchase order number, or receipt of conforming goods or services.
- 7.2 Amounts owed to BUYER due to rejections or returns of non conforming goods or services will be, at BUYER's option, either credited against current or future invoices or paid by SELLER within thirty (30) days from SELLER's receipt of both a request for payment and return of non conforming goods from BUYER.

8. INTELLECTUAL PROPERTY INDEMNITY

- 8.1 Upon BUYER's written notification to SELLER, SELLER shall defend, at its expense, any claim against BUYER alleging that the Goods and/or Services, or any part thereof, infringe any patent, copyright, trademark, trade secret, mask work, or other intellectual property interest in any country, and shall pay all costs and damages awarded. If an injunction against BUYER's use, sale, lease, license, other distribution of the Goods and/or Services, or any part thereof, results from such a claim (or, if BUYER reasonably believes such an injunction is likely), SELLER shall, at its expense, (and in addition to the SELLER's other obligations hereunder) and as BUYER requests, obtain for BUYER the right to continue using, selling, leasing, licensing, or otherwise non-infringing but functionally equivalent. The provisions of this section shall not apply to any claim for infringement resulting solely from SELLER's compliance with BUYER's detailed design specifications, where provided.



9. FORCE MAJEURE

- 9.1 Neither party shall be liable for failure to perform any of its obligations under this Agreement during any period in which such party cannot perform due to matters beyond their control, including, but not limited to, strike, fire, flood, or other natural disaster, war, embargo, or riot provided that the party so delayed immediately notifies the other party of such delay. If SELLER's performance is delayed for these reasons for a cumulative period of twenty (20) days or more, BUYER may terminate this Agreement and/or any Purchase Order(s) hereunder by giving SELLER written notice, which termination shall become effective upon receipt of such notice. If BUYER terminates, its sole liability under this Agreement or any Purchase Orders issued hereunder will be to pay any balance due for conforming goods and/or services (1) delivered by SELLER before receipt of BUYER's termination notice; and (2) ordered by BUYER for delivery and actually delivered within fifteen (15) days after receipt of BUYER's termination notice.

10. TERMINATION

- 10.1 The occurrence of any of the following constitutes a breach by SELLER unless corrected by SELLER within five (5) days.

SELLER failure to deliver goods and/or perform services on time.

Goods delivered and/or services performed by SELLER do not conform with the terms set forth in this Agreement.

SELLER fails to perform any material provision of this Agreement.

BUYER and SELLER do not reach an agreement on the next Pricing Period.



SELLER assigns this Agreement, or any obligation or rights hereunder. (The term "assign" to include, without limitation, a transfer of majority.)

SELLER sells or merges with a third-party (not a parent or subsidiary company) without the prior written consent of BUYER.

SELLER becomes insolvent or makes an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of SELLER's assets.

- 10.2 SELLER shall cure any of the above breaches and notify BUYER of such cure within five (5) days from receipt of a notice to cure from BUYER. If SELLER fails to cure, BUYER may terminate this Agreement and/or any Purchase Order(s) issued hereunder by giving SELLER written notice. BUYER shall have no liability to SELLER thereafter except for payment of any balance due for conforming goods delivered or services performed prior to the date of BUYER's notice to cure. BUYER may, at its option and without regard to SELLER's ability to cure, terminate this Agreement and/or any Purchase Order(s) issued hereunder for cause in the event of any second or subsequent instances of the above breaches by SELLER.

11. NOTIFICATION

- 11.1 Any notice given under this Agreement shall be written, or sent by telex, or facsimile. Written notice shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Any telex or facsimile notice must be followed within three (3) days by written notice. All notices shall be effective when first received at the following addresses:

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

If to SELLER:

with copies to:

If to BUYER:

with copies to:

12. CONFIDENTIALITY

12.1 Both parties shall maintain, as confidential, and shall not disclose to any person outside its employ, nor use for purposes other than performance of this Agreement, any specifications, drawings, blueprints, data, business information, or other confidential information which is learned by virtue of this Agreement, except where required by law. Upon expiration of this Agreement, both parties shall promptly return all confidential material and copies to the other party.

12.2 Unless otherwise determined in writing by SELLER, BUYER may reproduce and use SELLER's documentation provided by SELLER under this Agreement.

13. OWNERSHIP OF WORK PRODUCT

13.1 SELLER agrees that any and all work product shall be the sole and exclusive property of BUYER.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

- 13.2 SELLER further agrees that BUYER is and shall be vested with all rights, title, and interests, including patent, copyright, trade secret, and trademark rights in SELLER's work product produced under Purchase Orders issued pursuant to this Agreement. SELLER shall not encumber said work product in any way or act(s) inconsistent with BUYER's title thereto.
- 13.3 SELLER is required to execute all papers including patent applications, inventing assignments, and copyright assignments, and otherwise shall assist BUYER at BUYER's expense to perfect in BUYER's rights, and other interests in SELLER's work product expressly granted to BUYER under this Agreement.

14. SURVIVAL

- 14.1 The provisions of this Agreement dealing with Payment, Warranty, and Forum for Enforcement, shall survive termination or expiration of this Agreement.

15. APPLICABLE LAWS AND REGULATIONS

- 15.1 SELLER shall comply with all applicable federal, state, and local laws, rules, and regulations. The SELLER also agrees to indemnify and hold harmless from any and all damages and liabilities assessed against BUYER as a result of the SELLER's non-compliance therewith. Any permission required by law to be included herein shall be deemed included as a part of this Agreement whether or not specifically referenced.



16. FORUM FOR ENFORCEMENT

- 16.1 This Agreement and any Purchase Order issued hereunder shall be governed by and interpreted in accordance with the laws of _____.
- 16.2 Any controversy or claim arising out of, in connection with, or relating to this Agreement or a breach thereof shall be settled by arbitration under the arbitration rules of the _____ (indicate local arbitration board). The arbitration proceeding shall be governed by the Statutes of the State of _____, and the proceeding shall be held in the City in that State where the principal office is located. Anything to the contrary contained in the above mentioned rules and statutes notwithstanding, the parties consent that any papers, notices, or process necessary or proper for the institution or continuance of, or relating to any arbitration proceeding, or for the confirmation of an award and entry of judgment on any award made, including appeals in connection with any judgment or award, may be served on each of the parties by registered mail addressed to the party at the principal office of the party or by personal service on the party in or without the above mentioned state. The parties hereby recognize and consent to the above mentioned arbitration association's jurisdiction over each and every one of them.

17. DISPUTES

- 17.1 Any dispute arising under this Agreement which is not resolved by the BUYER and SELLER shall be decided by a court of law under the terms of the section on Forum for Enforcement. Pending settlement of the final decision by the court, SELLER shall proceed diligently with the performance of the Agreement in accordance with BUYER's direction.



18. EXHIBIT A SCOPE - ADVERTISING

18.1 SELLER SERVICES AND DUTIES

SELLER will devote its best efforts to further BUYER's interests and endeavors in every proper manner to make BUYER's advertising successful. To that end, SELLER shall render services and perform duties including, but not limited to, the following:

SELLER will familiarize itself with the business of BUYER, its merchandising policies and its products.

SELLER will formulate, develop, and submit to BUYER for BUYER's approval: advertising ideas, plans, programs, and campaigns.

SELLER will prepare and submit to BUYER written estimates of the cost of BUYER's advertising and expenses incidental thereto.

For use in connection with BUYER's advertising ideas, plans, programs, and campaigns, subject to BUYER's approval, SELLER will:

1. Write, illustrate, design, edit, and otherwise prepare advertising material of all kinds to be published, displayed, broadcast, distributed, or otherwise presented;
2. Provide artwork, engravings, electrotypes, and like materials and also the reproduction rights to pictorial and musical works;
3. Audition and engage theatrical, musical, and other talent;
4. Arrange and contract for the production of radio and television programs and motion picture films.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



SELLER will reserve, contract for, and otherwise obtain space, time, and facilities for publishing, displaying, broadcasting, distributing, and otherwise presenting BUYER's advertising.

SELLER will check and verify the following in accordance with SELLER's regular practices and procedures;

1. Appearance, date, position, size, and reproduction of BUYER's published advertisement;
2. Postings of BUYER's outdoor and indoor advertising displays;
3. Broadcasting of BUYER's radio and television programs, and presentation of BUYER's motion picture films;
4. Due delivery of advertising materials and supplies ordered by SELLER for use in BUYER's advertising.

SELLER will audit and pay all proper bills incurred by it for BUYER's account and make available to BUYER on a quarterly basis, or more often as BUYER requires, proof that such bills have been paid.

SELLER will assist BUYER with its internal communications related to the foregoing.

18.2 RESERVATIONS ASTO SELLER SERVICES

Nothing contained herein shall be deemed to require or authorize SELLER to undertake any campaign, prepare any advertising or publicity, or cause publication of any advertisement or article which, in SELLER's judgment, would be misleading, indecent, libelous, unlawful, or otherwise prejudicial to BUYER's interests.

18.3 AUTHORIZATIONS AND APPROVALS

Prior to beginning any work on requested projects, SELLER must obtain BUYER's Purchase Order form. Thereafter, SELLER will submit the following for specific written approval:

1. The copy, background, layouts, etc. for radio, television, other media, and other materials SELLER proposes for use in connection with BUYER's advertising;
2. Schedules giving the times and the media through which it is proposed that such material be published, displayed, broadcast, or otherwise presented.

BUYER's written approval of copy and layouts will constitute authority to prepare proofs, and written approval of proofs will constitute authority to publish. Written approval of radio, television, and motion picture scripts will constitute authority to audition and engage talent and to arrange and contract for productions, and written approval of films will constitute authority to release. Reservations and contracts for proposed space, time, and facilities, however, will not be made until the time, media, plans, costs, and expense estimates have been approved by BUYER in writing.

Where essential and practical, oral authorization or approval may be given by BUYER's employees, after which BUYER will provide written confirmation of such authorization or approval within three (3) business days.

BUYER retains the right to approve in writing specific talent prior to engagement.

18.4 COMPENSATION AND SERVICES

Definition of Net Cost - References to SELLER's "Net Cost" or "Actual Cost" shall mean the actual amount SELLER is required to pay or credit extended by a third party to purchase materials or services or both; i.e., the gross amount charged by the third party, less any and all related discounts, rebates, differentials, and similar items paid or allowed by the third party, except cash discounts received as a result

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



of monies advanced. With respect to media purchased by BUYER through a third party, BUYER and SELLER will agree at the time of initial purchase on a definition of "Actual Cost" of that and all subsequent purchases.

Compensation by Commission - A percentage commission shall be applied to billings for media, materials, and services rendered by third parties and contracted for by SELLER, based on the following commission schedule:

1. For Commissionable Media:

- a. Fifteen percent (15%) of the actual contracted cost of media expenditures for print advertising prepared and placed by SELLER.
- b. Fifteen percent (15%) of the actual contracted cost of media expenditures for broadcast advertising prepared and placed by SELLER for BUYER, with the exception of national network and cable buys which shall be at twelve percent (12%).
- c. Twelve percent (12%) of the actual contracted cost of media expenditures prepared by SELLER and placed by BUYER or another agency-of-record.

2. For Negotiated Rates:

For each project where a negotiated media rate will likely result in a substantially lower media rate, BUYER and SELLER will negotiate a commission percentage or flat fee which, though based on a lower media charge, will still give SELLER an incentive to negotiate such rates.

3. Third Party Production and Creative Charges:

Commissions of eighteen percent (18%) shall be applied to SELLER's Net Cost of other materials and services procured by SELLER from third parties for BUYER's advertising activity. Such materials and services include, but are not limited to, artwork, engravings, photocopies, typesetting, electrotyping, talent, and broadcast production.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

However, when such material and services are prepared internally by SELLER they shall be billed as part of production costs and shall be subject to this commission schedule, provided SELLER's costs do not substantially exceed competitive third party charges and expenses. In the event that any services billable under the terms of this contract are to be performed by a vendor in which SELLER has any financial interest, SELLER will disclose that to BUYER prior to any commitments being made.

NON-COMMISSION SERVICES:

1. Administrative Services:

Commissions shall not be payable for administrative services including, but not limited to, postage, packing, express, or other transportation charges incurred by SELLER in the shipping of plates, copy, orders, prints, and other materials to suppliers of space and time, telegraphic and teletype charges, duplicating, other out-of-pocket expenses, and costs of long distance telephone calls. These charges shall be invoiced to BUYER at Net Cost incurred by SELLER and, upon BUYER's request, shall be accompanied by appropriate receipts.

2. Third Party Research Projects:

For research projects, third party services, such as focus group sessions, shall be invoiced to BUYER as the costs incurred by SELLER.

3. Billing Rates:

These billing rates shall be used with prior approval from BUYER, as follows:

- a. the management component of research projects, when handled by SELLER.
- b. when a project is changed or canceled by BUYER rendering useless the original SELLER creative work (art, design, and copyrighting) which would otherwise

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

have been recovered by SELLER commission. Such changes could include changes in budget, media, and message. When such changes are made, both parties shall consider and agree on the appropriate compensation (based on rates), for creative and account management costs which have been incurred. The appropriate compensation may be less than but not to exceed twenty-five thousand dollars (\$25,000).

These rates shall remain fixed through the end of the Agreement Period. Requests for adjustment must be in writing and be received by the other party prior to the requested effective date of change. Revised rates shall be consistent with industry standards in the appropriate area. In no event shall prices be modified more than once in any twelve (12) month period. Rates are subject to review at the end of the Agreement Period.

Third Party Services - When the costs for a discrete component of a project are estimated to be in excess of one-thousand dollars (\$1,000) or its equivalent in local foreign currency, the fees or rates shall be established via the competitive bid process and approved by BUYER prior to award of work. Exceptions to this bid process must be approved by BUYER in writing.

Special Projects - From time to time, special projects may arise involving the use of a third party which BUYER may assign to SELLER and for which the applicable methods of compensation above may not be appropriate. In these cases, an alternate method of compensation may be introduced by either party, i.e., flat project cost, markup, etc.; and when mutually agreed by both parties, the proposed alternate method shall be used for that project only. The project cost would include account time, creative time, and production costs.

Non-reimbursable Overhead - SELLER shall not be reimbursed for overhead expenses which include but are not limited to the following:

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

1. Telephone and telegraph use within SELLER's local area or from SELLER's principal places of business to BUYER's principal places of business.
2. Travel expenses between SELLER and BUYER's principal places of business.
3. Stationery supplies.
4. Postage in the course of normal BUYER/SELLER correspondence.
5. Standard marketing research services normally used by advertising agencies in formulating copy or media strategy; e.g., media studies, interpretation of existing studies, and other like research which is commonly conducted for clients of SELLER.
6. Evaluation reports on the effectiveness of BUYER's advertising which is available from reporting services to which SELLER normally subscribes.
7. Administrative services and activities involved in executing BUYER's programs, i.e., billing, auditing, checking tearsheets and broadcast affidavits, SELLER administrative salaries, and similar items of overhead.
8. Insurance coverages, unless specifically required for BUYER's account, and SELLER so notifies BUYER prior to beginning the project which would require such additional coverage.
9. Counseling and Consultation Services relating to BUYER's total marketing and communication effort; i.e., publicity, merchandising, sales promotion, etc.
10. Services provided by the following SELLER personnel, except when provided in a modified project: Account Director, Management Supervisor, Account Supervisor, Account Executive, Account Coordinator, Associate and Media Directors, Media Planners and Buyers and, with regards to space advertising,



Production Manager and Production Coordinator; also, services not specifically requested by BUYER for Sales Promotion Director, Research Director, and Research Assistants.

11. Services performed by SELLER personnel which are not in response to a specific BUYER's Purchase Order.

SELLER will furnish BUYER, upon written request of BUYER, with quarterly financial reports which contain sufficient information for BUYER and SELLER to understand the status of the BUYER's account, and the resulting profits to BUYER.

18.5 AUDIT

SELLER shall maintain complete records of all transactions relating to BUYER's account including but not limited to, third party contracts, invoices and receipts, canceled checks, time sheets, and business expense vouchers for a period of three (3) years from the date of invoice to BUYER. Retained records shall be maintained in accordance with generally accepted accounting principles, and shall be available at any time for inspection or audit by BUYER or by a Certified Public Accountant retained by BUYER, at the offices of SELLER during regular business hours. BUYER must provide reasonable notice to SELLER in the event that BUYER requests an audit be conducted at SELLER's offices.

SELLER shall maintain proof of prompt payment by SELLER to any third parties with respect to all goods and services supplied by said third parties to SELLER for BUYER's account. Such proof shall be made available to BUYER for audit at SELLER's offices upon request, but no more frequently than once per month. BUYER shall provide SELLER with reasonable notice of any such audit.

18.6 EXCLUSIVITY OF SELLER

SELLER agrees to refrain, during the life of any and all Purchase Orders issued under this Agreement and unless BUYER gives its prior written consent to SELLER,



from acting as advertising agency for any company whose products or services are directly competitive of BUYER's, as determined by BUYER at its sole discretion.

The parties hereby acknowledge that prior to execution of this Agreement, SELLER disclosed to BUYER its current client companies, if any, whose products or services are conceivably competitive of BUYER's, and that by execution of this Agreement, BUYER has consented to SELLER's representation of any and all such disclosed client companies.

During the life of the Agreement, whenever SELLER shall consider adding any such conceivably competitive company as its client, SELLER shall request from BUYER a determination of whether the considered company is a competitor. After execution and during the life of this Agreement, BUYER will inform SELLER of any substantially changed competitive conditions which may occasion BUYER to withdraw its consent to SELLER's representation of any company to which BUYER has previously consented.

18.7 RESPONSIBILITIES UPON TERMINATION

The responsibilities of each party upon termination of this Agreement as provided for above shall be:

SELLER shall prepare and place BUYER's advertising to be published during the period preceding the termination date, except advertising in which BUYER may participate, as above provided, in connection with any joint program of an industry or group of companies.

SELLER will not be entitled to any profit or revenue in respect of space, time, facilities, materials, or services, with regards to advertising published, broadcast, or otherwise presented after the termination date of this Agreement, except as to advertising material prepared by SELLER or under SELLER supervision, previously approved and authorized by BUYER to be placed by SELLER with named media for publication in specified issues or for broadcast or presentation with closing or broadcast dates after termination.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

Upon the termination or expiration of this Agreement and payment of all items properly chargeable to BUYER hereunder, SELLER will, at BUYER's option, transfer and assign to BUYER or BUYER's designated representatives any and all contracts, options, reservations, orders, and other agreements made or obtained by SELLER hereunder for space, time, facilities, materials, and services in connection with BUYER's advertising and publicity. At any time prior to, and for a reasonable time after the termination hereof, SELLER will deliver or make available to BUYER or BUYER's designated representatives any and all physical property of BUYER in SELLER's custody or under SELLER's control.

After the termination of this agreement, BUYER shall have the exclusive right to use, in any proper and lawful way that BUYER may desire, and without obligation to pay SELLER or any one else any further compensation, in addition to those rights accruing to BUYER through Section 6 hereof, the following:

1. Any and all ideas or plans which SELLER prepared or developed for BUYER hereunder and which SELLER suggested or otherwise submitted to BUYER during the life of this Agreement;
2. Any and all layouts, copy, artwork, films, and other advertising material which SELLER prepared for BUYER or purchased for BUYER's account hereunder pursuant to a program or campaign which BUYER had approved, regardless of whether such material was published, displayed, broadcast, distributed, or otherwise presented prior to their termination hereof.

Ownership and use rights hereunder are subject to the limited rights acquisition provided in Section 6 hereof.

18.8 EMPLOYMENT OF TALENT

For all radio, television, and motion picture talent, and the like (herein referred to as "Talent") employed or retained by SELLER for use in any advertising prepared on BUYER's behalf, SELLER shall perform and discharge all obligations imposed upon it under federal, state, and local laws and shall, without exception, forward executed copies of all such Talent and third party contracts to BUYER.

SELLER hereby acknowledges that BUYER is not a signatory to any collective bargaining agreements relating to the employment of Talent and does not become one by virtue of this Agreement. SELLER shall perform all obligations which may be imposed upon it by applicable collective bargaining agreements and shall indemnify and hold BUYER harmless against any and all claims based on such agreements.

If this Agreement is terminated for any reason, any contract SELLER has entered into with Talent, who have performed in BUYER's advertising, shall be assigned to BUYER, or to BUYER's representatives at BUYER's option, simultaneously with the effective date of such termination. In the event of such assignment, BUYER shall assume all of the rights and obligations under said contract and SELLER shall be relieved of any further responsibility or liability with respect thereto, except that such assignment shall not relieve either BUYER or SELLER from liability incurred prior to the assignment and for which it would be otherwise liable under this Agreement or at law. BUYER shall indemnify SELLER against any expense or loss SELLER may incur as a result of a claim by such Talent or a third party arising after the assignment of said contract to BUYER to the extent that such expense or loss results from the acts or omissions of BUYER if SELLER promptly notifies BUYER in writing of any such claim, and BUYER has full control of any defense or settlement.

Any other term or provision of this Agreement notwithstanding, BUYER reserves the right to approve specific Talent prior to engagement.

**SOLUTIONS FOR
TRADING PARTNER
AGREEMENTS**



Advertising
Services

18.9 SELLER HOURLY RATES

Title and Name(s)	Hourly Rate
Executive Personnel, Top Level: (e.g., President, Executive Vice President, etc.)	\$
Executive Personnel, Mid Level: (e.g., Senior Vice President, etc.)	\$
Executive Personnel, Low Level: (e.g., Vice President, Group Manager, etc.)	\$
Account Supervision Personnel: (e.g., Account Supervisors, etc.)	\$
Account Management Personnel: (e.g., Senior Account Executive, Account Executive, etc.)	\$
Account Coordination Personnel: (e.g., Account Coordinator, Assistant Account Executive, etc.)	\$
Production Personnel: (e.g., Production Assistant, Word Processing, etc.)	\$
Others (specify)	