



Love Communications and San Juan County Economic Development

2022-2023 General Client-Agency Agreement 3/4/2022

To: Elaine Gizler
Marketing Director
San Juan County Economic Development

Love Communications ("Agency") hereby agrees to serve as San Juan County Economic Development's ("Client") Agency of Record (AOR) in accordance with and subject to the following terms and conditions:

A. AGENCY SERVICES

The Agency will perform the following services on Client's behalf:

- A. Data Analytics and Reporting
- B. Account Management

Additional Agency Services

For any requests that fall outside of the above outlined services, Agency will provide cost estimates for each project and/or service and will receive written approval by Client prior to beginning the project or production.

B. CHARGES FOR ADVERTISING AND METHODS OF PAYMENT

1. Financial Structure

- a. \$500 per month to cover Agency time estimated at 3 hours per month (blended hourly rate of \$165).
- b. \$26,000 annually to purchase mobile data from Near in addition to data storage and licensing costs.
- c. Agreement is for twenty-four (24) months, beginning March 1, 2022, and extending through February 28, 2023. After twenty-four (24) months, the Agreement month-to-month until Client provides a 30-day cancellation notice to Agency. See "Section E" for termination of agreement.

- d. Individual media cost proposals will be provided by Agency for Client review and approval before any advertising ideal, plan, program or campaign is commenced. Each proposal will outline services with the associated Agency commissionable amount of 15% (fifteen percent).

2. Charges for Materials and Services Purchased

Client agrees to pay Agency the cost of all media, materials, and services, purchased for Client on its authorization including a standard agency commission of 15% (fifteen percent). The media commissions will cover all Agency media services. Hard costs, as well as applicable taxes chargeable on those hard costs, will be outlined and invoiced separately. Agency will provide at the Agency's cost all services, labor, materials, consumables, tools and equipment necessary to perform the Services, and to perform its obligations under this agreement.

3. Cooperative Advertising

If cooperative advertising is published or broadcast, Client agrees to pay Agency the amount, if any, the Agency has obligated itself on Client authorization to pay media or other parties for space and time.

If, on Client instructions, Agency bills a third party, then payment and responsibility of such charges are assumed by Client in event the third party fails to pay Agency on the normal due date.

4. Charges for Out-Of-Pocket Expenses

All out-of-pocket expenses, including travel, will be provided by Agency for Client approval before any expenses are incurred.

5. Charges for Special Services Performed by Agency

If Client should desire special services from time to time performed by Agency on Client's authorization (as distinguished from services purchased outside Agency's organization), the compensation Agency is to receive shall be agreed upon between Client and Agency in advance.

C. TERMS OF PAYMENT

1. Client Agreement to Pay

Client agrees to pay Agency invoices on payment dates stated thereon. Agency agrees that such payment dates will not precede by more than 60 days the date on which Agency pays media. If Client does not pay Agency invoices, Client will be responsible for any and all legal fees incurred by the Agency to collect payment.

2. Mailing Date of Invoices

So the Client may have sufficient time to audit and pay Agency bills by due date, Agency will mail invoices at least 30 days before payment date. After 30 days, interest will be accumulated at the rate of 1-1/2% per month on the unpaid balance.

D. GENERAL PROVISIONS

1. Mutually Exclusive Arrangement

If Client engages the services of any other advertising agency, Client will inform Agency of such engagement within a reasonable time.

Agency agrees to refrain during the life of this agreement from acting as advertising agency for any company directly competitive with Client without Client's written consent.

2. Agency Relationship

Agency is authorized to act as the Client's agent in purchasing materials and services required to produce advertising on Client's behalf. All such materials and services will become Client property upon purchase.

3. Mutual Cooperation

Agency agrees to devote its best efforts to Client interests, and to endeavor in every way to make Client's advertising successful, and Client agrees to aid Agency in doing so by making available to Agency needed information pertaining to Client business and to cooperate with Agency in expediting Agency work.

4. Approval of Expenditures

Agency agrees to secure Client approval of all expenditures in connection with Client advertising.

5. Cancellation of Plans

Client reserves the right, in Client's best interest, to modify, reject, cancel or stop any and all plans, schedules or work in process; and in such event, Agency shall immediately take proper steps to carry out Client instructions; but Client agrees to assume Agency's liability for all commitments, and to reimburse Agency for any losses Agency may sustain derived there from, and for all expenses incurred in connection with Client advertising on Client's authorizations, and to pay Agency any service charges relating thereto, in accordance with the provisions of this agreement.

6. Agency Obligation to Media

Nothing in this agreement shall be construed as committing Agency to violate any lawful contractual commitments to media.

7. Failure of Suppliers to Perform

Agency will endeavor to the best of its knowledge and ability to guard against any loss to Client through failure of media or suppliers properly to execute their commitments, but Agency shall not be held responsible for any failure on their part.

8. Disclosure Clauses

Agency will fully disclose to Client any interest or association, which Agency may have with any supplier of goods or services.

9. Responsibility of Agency

Agency shall obtain releases, licenses, permits or other authorization to use photographs, copyrighted materials, artwork or any other property or rights belonging to third parties obtained by Agency for use in performing Client services.

10. Responsibility of Client

Client shall obtain the same for any such items obtained by Client, which are used by Agency in performing such services, and shall be responsible for any claims with respect to such use.

Client shall be responsible for the accuracy, completeness and propriety of information concerning its products and services, which Client furnishes to Agency in connection with the performance of this agreement.

11. Indemnification of Agency and Client

Agency agrees to exercise its best judgment in the preparation and placing of all advertising and publicity for Client, with a view to avoiding any claims, proceedings, or suits being made or instituted against Client or Agency. Additionally, all publicity must be approved by Client. It is mutually agreed, however, that Client will indemnify Agency against any loss Agency may incur as the result of any claim, suit or proceeding made or brought against Agency based upon any advertising or publicity which Agency prepared for Client and which was approved before its publication or broadcast, as further defined below.

Except as is otherwise provided below, Client agrees to indemnify and hold Agency harmless from and against any liabilities and expenses (including attorneys' fees) reasonably incurred by Agency in respect of any action or proceeding brought or threatened to be brought before any court, administrative body or other tribunal, which action arises out of (a) assertions made for any of Client's products (or services) or any of the products (or services) of any of Client's competitors in any advertising which Agency may prepare for Client and which Client approves before its publication or broadcast and/or (b) an advertising element, which is furnished by Client to Agency and which allegedly, violates the personal or property rights of anyone.

Agency agrees to indemnify and hold Client harmless from and against any liabilities and expenses (including attorneys' fees) reasonably incurred by Client in respect to any advertising materials prepared by Agency for Client which give rise to any claim pertaining to libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism.

12. Ownership of Work Product

As used herein, the term "Work Product" shall mean any and all work product (including, but not limited to, files, documents, reports, text, photos, videos, artwork, logos, designs, layouts, etc.) developed by Agency or its approved subcontractors for Client hereunder. Work Product shall include final deliverables, working files, and data generated or collected as a result of the services provided by Agency hereunder. Agency shall provide the Work Product to Client upon request and immediately upon termination of this Agreement for any reason. Unless agreed otherwise in a writing signed by Agency and Client with respect to the particular Work Product exempt from this general assignment, Client shall own the intellectual property rights in and to all Work Product, and Agency hereby assigns to Client all such intellectual property rights.

E. TERMINATION OF AGREEMENT

1. Period of Agreement and Notice of Termination

This agreement will become effective March 1, 2022 and extending through February 28, 2023. However, if either party has materially breached this agreement, the non-breaching party may terminate this agreement effective thirty (30) days after receipt by the other party of written notification of such breach if it has not been cured to the reasonable satisfaction of the non-breaching party within such time period.

2. Placing Advertising and Compensation During Period of Notice

The rights, duties and responsibilities of the Agency shall continue in full force during the period of notice including the ordering and billing of advertising in media whose closing dates or broadcast dates fall within such period, and Agency shall be entitled to all commissions and any other compensation relating to such advertising regardless of who may place it.

Upon termination of this Agreement, no rights or liabilities shall arise out of this relationship, regardless of any plans, which may have been made for future advertising.

3. Payment for Purchases and Work Done

Any materials, service, etc., Agency has committed itself to purchase for Client's account, or with Client approval (or any uncompleted work previously approved by Client either specifically or as part of a plan) shall be paid for by Client in accordance with the provisions of this agreement; provided, however, that all purchases over \$500 shall be expressly approved in advance by Client.

4. Disposition of Client's Property and Transfer of Contracts with Media

Upon the termination of this agreement, Agency shall transfer, assign, and make available to Client or its representative within 30 days, all property and materials in Agency's possession or control belonging to and paid for by Client, and all information regarding Client's advertising.

Agency also agrees to give all reasonable cooperation toward transferring with approval of third parties in interest all reservations, contracts and arrangements with advertising media or others, for advertising space, broadcasting time, or materials yet to be used (including un-cancellable contracts) and all rights and claims thereto and therein, upon being duly released from the obligation thereof. Agency will make every effort to assist Client in voiding all agreements and contracts, which had been entered into by Agency on behalf of Client.

5. Examination of Records

It is understood that Client may at any time during the life of this agreement, and upon reasonable notice, examine Agency's files and records pertaining to all services provided by Agency hereunder.

6. Choice of Law; Venue; Jury Waiver

This agreement shall be governed by the laws of the State of Utah, excluding its choice of law provisions, and venue for any action relating to or arising from this Agreement shall be in the federal or state courts located in Utah, respectively. The parties each waive their respective rights to a trial by jury of any claim or cause of action based upon or arising out of or relating to the Agreement in any action, proceeding or other litigation of any type brought by any party against any other party, whether with respect to contract claims, tort claims, or otherwise. The parties each agree that any such claim or cause of action shall be tried by a court without a jury.

7. Notice

Any notices required or permitted under this Agreement shall be in writing and shall be deemed given if (i) delivered in person, (ii) sent by registered or certified mail, return receipt requested, with proper postage affixed, (iii) sent by facsimile with confirmation of receipt; or (iv) sent by overnight mail service with confirmation of delivery. In the case of (i), notice shall be deemed effective upon delivery; in the case of (ii), (iii) and (iv), notice shall be deemed effective upon confirmation of receipt or delivery.

This agreement is accepted and authorized by the signatures below.

AGENCY ACCEPTANCE BY:

Name _____

Title _____

Signature _____

Date _____

CLIENT ACCEPTANCE BY:

Name _____

Title _____

Signature _____

Date _____

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