

## GENERAL TERMS OF SALE

These General Terms of Sale (the "**Agreement**") will apply to all Work ordered by Client and performed by Quad/Graphics, Inc., its subsidiaries, affiliates and/or related entities ("**Quad**"). Client and Quad may be collectively referred to as the "**Parties**" or individually as a "**Party**."

### 1. ENGAGEMENT; GOVERNING DOCUMENTS

- A. **Engagement.** Client engages Quad, and Quad accepts such engagement, to perform the services (the "**Services**") and/or provide the deliverables (the "**Deliverables**") (collectively the "**Work**") as more fully described in Section 2 of this Agreement.
- B. **Governing Documents.** Depending on the Work that Client purchases from Quad, certain additional terms for that specific Work may apply. These terms are included in the Addenda to this Agreement, which can be found on [www.Quad.com/clients](http://www.Quad.com/clients) and are incorporated by reference and made a part of this Agreement with respect to that particular Work. In the event of a conflict between this Agreement and its Addenda, the Addenda prevails, but solely as to the specific type of Work described in the Addenda. With respect to Orders (defined below), the project scope, pricing, and similar business terms in an Order will be binding, and to the extent of any conflict between these business terms and this Agreement, the terms of the Order shall control for that Order. Any additional terms contained in an Order from Client or other documents supplied by Client will not modify this Agreement and will be and are deemed rejected. In the event of a conflict between this Agreement (including its Addenda) and an Order, this Agreement prevails unless the Order specifically refers to and states that it is modifying this Agreement, in which case such Order prevails solely with respect to the conflicting terms.

### 2. SCOPE OF WORK

- A. **Orders for Work.** The Work will be specified in one or more Statements of Work (each, an "**SOW**") or in orders, quotes, estimates, proposals, or other requests for Work that may contain scope and specifications, project timelines, Fees, Expenses, and other matters relating to the Work (each, a "**Purchase Order**"). SOWs and Purchase Orders will collectively be referred to herein as "**Orders**". Each Order must be mutually agreed to by the parties in writing and will be automatically subject to the terms and conditions of this Agreement.
- B. **Amendment to Orders.** Client may request changes (additions, deletions, terminations, or other modifications) to any Order, and Quad will work with Client to implement those changes to the extent reasonably practicable. However, any changes to the Order that may impact pricing, scheduling, or other material terms must be set forth in a written change order or an additional or amended Order (each a "**Change Order**"). Any Change Order must be mutually agreed to in writing by both parties and will be automatically subject to the terms of this Agreement unless stated otherwise. For any change requested by Client, Client agrees to (i) assume Quad's liability for all approved commitments made prior to the requested change, (ii) reimburse Quad for all expenses incurred prior to the requested

change, and (iii) pay Quad any related service charges in accordance with the provisions of this Agreement. Quad shall have no liability if it is unable to cancel, through no fault of its own or other negligence of Quad, any previous commitment, including without limitation media purchases, and/or obtain a refund or reschedule any commitment, placed prior to the requested change. In the event any changes requested by Client or Quad result in an increase in the estimated Fees and/or Expenses for the Work, and prior execution of a Change Order is not practical, Quad will provide a verbal estimate of such increases and obtain Client's verbal approval. Quad will then confirm such verbal approval by submitting a written Change Order, and Client will provide Quad with prompt written approval of such Change Order.

### **3. TERM OF AGREEMENT**

The term of this Agreement will remain in effect until termination of this Agreement in accordance with the termination rights set forth herein. The terms and conditions of this Agreement will continue to apply after the termination date, but only to the extent necessary to govern the completion of any Order entered into before such date, and/or any provisions expressly surviving termination of this Agreement.

### **4. PRICING AND TAXES**

- A. Pricing for Work. As compensation for the Work, Quad will charge and Client will pay the fees, commissions and other charges ("**Fees**") more fully described in the applicable Order. All Fees will be set forth in each Order, but if an Order does not include a Fee for the Work, Client will be charged at rate(s) separately quoted by Quad and agreed to by Client.
- B. Expenses. Unless otherwise provided by the applicable Order, Quad will charge and Client will reimburse Quad for all actual, documented out-of-pocket expenses incurred in connection with the Work, including any approved or authorized travel expenses ("**Expenses**").
- C. Taxes. Fees and Expenses are exclusive of, and Client is solely responsible for payment of, any applicable taxes on any Work, including sales, use, and other similar taxes, except for any taxes imposed on Quad's income, revenues, gross receipts, personnel or real or personal property. In the event Client desires that its invoices do not include sales tax, Client must provide Quad with documentation that demonstrates to Quad's reasonable satisfaction that Client is exempt by law of any such taxes (including an exemption certificate or equivalent information acceptable to the relevant taxing authority). In the absence of Client providing Quad with such documentation, Quad will invoice, collect and remit such taxes as required by law, and Client will pay such taxes in addition to the Fees and Expenses.

## 5. PAYMENT TERMS

- A. Credit Approval. Quad's performance of the Work is subject to credit approval. Quad may from time to time review Client's credit-worthiness, and Client agrees to provide financial and credit information as Quad may reasonably request.
- B. Invoices. Quad will invoice Client in accordance with the invoicing schedule set forth in the Order or, if no invoicing schedule is set forth in such Order, upon completion of the Work or at such other intervals as may be commercially reasonable. If Client requires Quad to use a third-party invoicing system, Client agrees to pay Quad any fees charged by Client's third-party vendor.
- C. Payment Terms. Client must pay all invoices net thirty (30) days after the date of invoice unless otherwise agreed to in an Order. If a Payment Terms Letter exists between the Parties, the terms of that Payment Terms Letter will control in the event of a conflict between this Section 5.C and the Payment Terms Letter. Client will make all payments in U.S. dollars by wire transfer, ACH payment, or through Quad's online payment portal.
- D. Changes to Payment Terms. In the event Client fails to comply with the terms of payment for any undisputed invoices, or in the event of an adverse change in Client's credit standing, as determined in Quad's reasonable judgment, Quad may change terms of payment and Quad will have no obligation to perform or provide further Work until the Parties reach mutual agreement on such revised terms.
- E. Disputes. Should any portion of an invoice be disputed in good faith, Client will provide written notice to Quad clearly setting forth the nature of the dispute and all facts supporting such dispute not later than the date payment is due or thirty (30) days of the date of the invoice, whichever occurs earlier. Client will timely pay any undisputed portions of disputed invoices. If Client timely provides a notice of dispute, the Parties will negotiate in good faith with reasonable diligence to resolve the disputed portion of such invoice within thirty (30) days of Client's written notice to Quad. If the Parties are unable to resolve such dispute within said thirty (30) days, Quad may exercise any and all remedies available to Quad under this Agreement, by law or in equity, all of such remedies being cumulative.
- F. Past Due. Any past due invoiced sums will bear interest from and after the due date until the invoice is paid at the lesser of one percent (1%) per month, compounded monthly, or the highest rate allowed by applicable law. Client is responsible for and shall pay to Quad all costs and fees incurred by Quad, including reasonable attorneys' fees, to collect any past due sums.
- G. Security. As security for amounts owed by Client to Quad, Client grants to Quad a lien on and security interest in all of Client's right, title and interest in and to all Client Materials (defined below), work-in-process, undelivered Deliverables, supplies, deposits, general intangibles, goods, inventory, and all other property of Client, in each case, that is in Quad's possession, whether now owned or hereafter acquired by Client.

## 6. CLIENT OBLIGATIONS

- A. Cooperation. In support of Quad's performance of its obligations, Client will cooperate with Quad in all matters relating to the Work and respond promptly to any Quad requests for: (i) access to Client's staff, resources and/or facilities as may reasonably be requested by Quad, and (ii) direction, authorization, decision, instruction, or other information ("**Client Instructions**") that are reasonably necessary for Quad to perform the Work. Quad shall be entitled to rely on the Client Instructions, and will not be responsible for any consequences resulting from its reliance on the Client Instructions or from Client's failure to timely provide cooperation or Client Instructions.
- B. Client Materials. Client may submit certain materials (including without limitation raw materials, semi-finished and finished materials), content, information, mail lists, and/or data to Quad from time to time ("**Client Materials**"). Client will timely provide any Client Materials necessary for the Work and will ensure that the Client Materials comply with Quad's specifications and requirements, which may be found on [www.Quad.com/clients](http://www.Quad.com/clients) or otherwise communicated to Client. Additional costs due to delays, impaired production, damage to equipment, or the necessity to correct, repair, replace, substitute or remake Deliverables because of Client's failure to meet such requirements shall be charged to Client at Quad's standard rates then in effect. Client agrees that it will not provide Quad with any Client Materials that are not required or necessary for Quad to provide the Work. With respect to Client Materials provided to Quad: (i) they are free from defects, (ii) any statement, claim or representation made within the Client Materials is true and made in accordance with all applicable laws, consents, and orders, including but not limited to the FTC Act and regulations promulgated thereunder, (iii) they contain no defamatory, libelous or slanderous, fraudulent, deceptive or misleading, or otherwise unlawful content or information, and (iv) they can be provided to Quad to perform the Work without violating any law, regulation or contract between Client and a third party.
- C. Approvals. From time to time Quad will submit to Client for its approval (not to be unreasonably withheld or delayed) elements of Work to be produced under this Agreement, including, but not limited to, print proofs, formats, color, screenshots, copy, layouts, photography, scripts, recordings, storyboards, websites and commercials. Client shall provide its approval or rejection to Quad within the time frame specified by Quad for the relevant Work, but in no event longer than two (2) business days following Quad's notice. Client agrees that for any Services that may require Quad to provide content for approval by Client, including without limitation potential new trademarks, service marks, logos, designs, product descriptions, product disclaimers, and the like, Quad is not providing legal services and makes no legal opinion or warranty with respect to Client's rights to publish, use or commercialize such content. Client is solely responsible for conducting its own due diligence and receiving any legal clearance prior to its publication or commercial use of the content as part of its approval of the Work. Any element will be deemed approved if Client fails to reject the element within the specified time

period or if Client instructs Quad to not submit such element for Client's approval. In the event that Client rejects any elements to the Work, Quad shall revise such elements within a reasonable time, it being understood that Quad shall notify Client in the event Quad will incur additional fees in connection with such revisions (except to the extent such revision is a result of Quad's failure to deliver the elements as agreed upon in the relevant Order). For the avoidance of doubt, in the event Client requests changes to any elements or to the Work that otherwise adhered to all requirements of the Order, such changes may be subject to additional fees and any delay in delivery of such Work is not within Quad's control and shall not be deemed a breach of this Agreement.

- D. Unauthorized Modifications. During the period in which Quad is developing or producing Deliverables or providing Services associated therewith, Client will not adapt, alter, change, edit, or modify the Deliverables except as authorized in writing by Quad. If Client adapts, alters, changes, edits, or modifies a Deliverable, or otherwise interferes with the performance of the Services without the prior written approval or authorization of Quad, Client shall be responsible for, and shall pay, any additional fees, costs and expenses resulting from or incurred in connection therewith.
- E. Export Restrictions. Client agrees that: (i) the Work provided by Quad will not be used in connection with any nuclear, chemical, or biological weapons programs or other related activities, (ii) the Work will not be exported, re-exported, rented, sold, shipped, or otherwise transferred to locations, persons or entities subject to applicable trade embargos or sanctions or appearing on any denied party or entity lists or other sanctions lists, and (iii) it will not issue any request to Quad to comply with the Arab league boycott of Israel or any other foreign boycott that is not sanctioned by the U.S. Government.
- F. Excused Obligations. Quad's failure to perform its obligations under this Agreement will be excused, and not included in any determination of non-performance by Quad, to the extent such failure is related to or caused by Client's failure to comply with this Section 6, breach of the Agreement by Client, or any infringements or misappropriation of third-party rights by Client or its employees or agents (including by Quad in connection with using or incorporating the Client Materials into the Work).

## **7. INTELLECTUAL PROPERTY AND OWNERSHIP**

- A. Client Materials. Client will remain the sole and exclusive owner of all right, title and interest in and to the Client Materials, including all intellectual property rights therein. Client grants to Quad: (i) a limited, royalty-free, non-exclusive, non-transferable license to use, reproduce, publish and distribute the Client Materials in furtherance of its performance under this Agreement, and (ii) the right to aggregate and anonymize information derived from the Services and/or Client Materials for the purpose of enhancing or improving Quad's product or service offerings.

- B. Ownership of Deliverables. Subject to rights in any Third Party Content (defined below) and Quad Property (defined below), and subject to full and complete payment to Quad of all Fees and Expenses for Work performed, it is understood that any Deliverables developed and produced by Quad for Client in Final Form (defined below) pursuant to this Agreement shall, except as otherwise agreed to by the Parties, be considered “works made for hire” pursuant to the United States Copyright Act and the property of Client. For purposes of this Agreement, “**Final Form**” shall, for radio and television advertisements, mean works produced through the “rough cut” stage; for newspaper, magazine, outdoor, direct mail and similar “print” advertisements Final Form means the near final, full color artwork and text created by Quad from which the actual advertisement is produced; for on-line advertisements, Final Form means the creative work of Quad at the stage when the work is ready to be moved from the staging server to the production server; and for media buying/planning Services, Final Form means the final media plan and related deliverables. If Quad has not yet received full and complete payment, and/or advertising or other materials have not yet been produced by Quad in Final Form, then such materials presented to Client shall remain the sole property of Quad.
- C. Perfection of Client Ownership in Deliverables. To the extent that any Deliverables do not qualify as works made for hire, Quad agrees to assign all rights it may have in the Deliverables created by it for the Client (including copyright), provided such Deliverables have been produced by Quad in Final Form, and provided Client has made full and complete payment to Quad of all Fees and Expenses for such Deliverables and related Services. Subject to these terms, Quad agrees to execute any document(s) that Client may reasonably require to transfer or assign ownership from Quad and/or its Agents to Client.
- D. Quad Property. Quad possesses general knowledge, experience, skill, talent, know-how and other information to provide the Work, including all materials, methodologies, software, applications, processes or procedures, and any modifications or derivative works of the foregoing, that are used, created or developed by Quad prior to, or independent from, its performance under this Agreement (“**Quad Property**”). Quad will remain the sole and exclusive owner of all right, title and interest in and to the Quad Property, including all intellectual property rights therein. Subject to payment in full of all Fees and Expenses, Quad grants to Client a limited, royalty-free, non-exclusive, non-transferable license to use Quad Property incorporated into any Deliverables solely in connection with Client’s own use of the Deliverables.
- E. Use of Marks. Quad may, during the Term, use the service marks, trademarks, trade dress or logos belonging to Client (“**Client Marks**”) solely in connection with performing the Work. Quad shall have no right to use the Client Marks for any other reason unless otherwise expressly permitted in an Order or as otherwise consented to by Client in writing.
- F. Third-Party Content. Quad may include within the Deliverables content obtained from third-parties, including without limitation images, photographs, trademarks,

and fonts ("**Third-Party Content**"). In such circumstances, Quad will obtain all necessary licenses to include the Third-Party Content into the Deliverables. Neither Quad nor Client shall have any ownership or other property rights in or to the Third-Party Content, the ownership of which will be retained by the third-party licensor, other than as subject to the applicable license(s). In such instances, Client agrees to be bound by the terms of such license(s) and restrictions.

## 8. CONFIDENTIALITY

- A. Confidential Information. From time to time during the term of this Agreement, either Party (the "**Disclosing Party**") may disclose or make available to the other Party (the "**Receiving Party**"), non-public, proprietary, or confidential information of Disclosing Party that is clearly designated by Disclosing Party as confidential or which Receiving Party should reasonably understand Disclosing Party would expect to be treated as confidential (collectively "**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (i) is or becomes lawfully and generally available to the public other than as a result of Receiving Party's breach of this Section 8 or any other duty or obligation of confidentiality owed to the other Party, (ii) is or becomes available to 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, (iii) was in Receiving Party's possession prior to Disclosing Party's disclosure hereunder as evidenced by its records, or (iv) was or is independently developed by Receiving Party without using any Confidential Information.
- B. Obligations. Receiving Party will: (i) protect and safeguard the confidentiality of Disclosing Party's Confidential Information with at least the same degree of care as Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, (ii) not use Disclosing Party's Confidential Information, or permit it to be used, for any purpose other than to exercise its rights or perform its obligations under this Agreement, and (iii) not disclose any such Confidential Information to any person or entity, except to Receiving Party's employees, agents, contractors, attorneys or representatives ("**Representatives**") who need to know the Confidential Information to assist Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement or enforce this Agreement. Receiving Party will ensure that its Representatives who have access to Disclosing Party's Confidential Information are informed of the confidential nature of the Confidential Information and are subject to confidentiality duties or obligations that are no less restrictive than those contained in this Section 8. Receiving Party will be responsible for any improper or unauthorized use or disclosure of Confidential Information by its Representatives.
- C. Required Disclosure. If Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it will, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy and Receiving Party must only disclose or furnish that portion of Confidential Information as such

Receiving Party or the applicable Representative is legally obligated or compelled to so produce or disclose.

- D. Return or Destruction. At Disclosing Party's request, Receiving Party will return or destroy any Confidential Information Receiving Party obtained from the Disclosing Party. However, nothing contained herein will be construed to prohibit Receiving Party from retaining electronic information maintained in compliance with its digital data retention and automated backup procedures; such Confidential Information will remain subject to the confidentiality obligations set forth herein.
- E. Remedies. In the event of a breach of this Section 8, the Receiving Party understands and agrees that direct money damages may not be an adequate remedy for any breach of this Agreement by it and that the Disclosing Party may be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach. The Receiving Party further agrees to waive any requirement for the Disclosing Party to secure or post any bond in connection with such remedy.
- F. Conflicting Obligations. The provisions of this Section 8 are intended to supersede and replace in whole any previous confidentiality, non-disclosure or similar agreement between the Parties that relate to the Work.
- G. Survival. Notwithstanding the term of the Agreement, the obligations set forth in this Section 8 with respect to each item of Confidential Information disclosed hereunder will remain in effect for a period ending three (3) years from the date of disclosure of such item, except for trade secrets which will remain confidential the longer of three (3) years or when it is no longer a trade secret.

## **9. DATA PROTECTION**

The Parties agree to the Data Services, Use, and Processing Addendum found at [www.Quad.com/clients](http://www.Quad.com/clients) with respect to the handling and processing of all data between the Parties.

## **10. TITLE AND RISK OF LOSS**

Title and risk of loss to the Deliverables will pass to Client upon the earlier of: (A) delivery to Quad's dock, or (B) delivery into storage as may be requested by Client from time to time, subject to mutually agreeable terms and storage fees. For digital Deliverables, title and risk of loss will pass to Client upon transmission of those Deliverables from Quad.

## **11. WARRANTIES**

- A. Mutual Warranties. Each Party warrants to the other Party that:
  - i. execution of this Agreement by its representative has been duly authorized;
  - ii. entering into and performing under this Agreement will not conflict with or result in a breach or violation of any agreement by which a Party may be bound; and

- iii. it will comply with all applicable laws in its performance under this Agreement, including those pertaining to ethical business practices such as the Foreign Corrupt Practices Act and analogous laws, and all laws relating to anti-bribery and kickbacks, anti-corruption, insider trading, export compliance, economic sanctions and anti-boycott, money laundering and human trafficking.
- B. Performance Warranties. Quad makes the following limited warranties to Client during the Warranty Period (defined below):
- i. the Deliverables will meet the specifications contained in each Order; and
  - ii. it will perform the Services in a professional and workmanlike manner, at commercially acceptable levels as are customarily provided in the industry for each type of Service provided.
- C. Duration of Warranties. The limited warranties provided under Section 11.B shall commence upon performance of the Services or delivery of the Deliverables, as the case may be, and shall last for a period of thirty (30) days ("**Warranty Period**"). Client claims for any breach of the warranties must be made in writing within the Warranty Period, fully setting forth the nature of the claim and including all facts and details supporting such claim.
- D. Disclaimer. OTHER THAN THE WARRANTIES PROVIDED IN THIS SECTION 11, QUAD MAKES NO OTHER WARRANTIES AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES ARE DISCLAIMED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. FURTHER, QUAD IS NOT RESPONSIBLE FOR AND MAKES NO WARRANTIES WITH RESPECT TO THE INTERNET, THIRD-PARTY DEVICES, SOFTWARE OR SYSTEMS, OR MATERIALS.

## 12. REMEDIES AND LIMITATIONS ON LIABILITY

- A. Acknowledgement. The Parties acknowledge that the remedies and limitations set forth herein are integral to the amount of consideration paid or to be paid to Quad by Client under this Agreement.
- B. Remedies and Performance Limitation. In the event of a material breach of a performance warranty set forth in Section 11.B by Quad, the Parties will work together in good faith to mitigate the effects of such breach. In addition, Quad will repair or replace the defective Deliverables or re-perform the defective Services. If such repair, replacement or re-performance is not reasonably possible, Client and Quad will negotiate in good faith to reach mutual agreement on a reasonable remedy, which may include a credit, taking into account the nature of the breach, any actual direct damage Client has incurred, and any other relevant factors. In all cases, the Client is not entitled to recover damages more than once with respect to the same claim and Quad's liability with respect to such breach will not exceed Quad's total invoiced manufacturing or Service price for the portion of the Order that is defective as the sole result of Quad's failure to perform in accordance with

the terms of this Agreement. This provision states the sole liability of Quad and the sole remedy of Client in the event of a breach of the performance warranty or any other deficiency or defect in the Work. The payment by Quad of the sales credit or performance of another agreed to remedy will cure the related breach of warranty.

C. Exclusion of Certain Damages.

- i. EACH PARTY WILL ONLY BE LIABLE TO THE OTHER PARTY FOR DIRECT DAMAGES. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY OTHER TYPES OF PENALTIES OR DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIQUIDATED, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST SALES OR PROFITS, WHETHER IN AN ACTION BASED UPON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- ii. FOR PURPOSES OF THIS AGREEMENT, QUAD'S CONTRACTED PRICE PAID OR PAYABLE UNDER THIS AGREEMENT WILL BE CONSIDERED DIRECT DAMAGES.

D. Other Limitations.

- i. THE LIABILITY OF QUAD ARISING OUT OF OR RELATED TO ANY CLAIMS RELATED TO THIS AGREEMENT WILL NOT EXCEED IN AGGREGATE THE LESSER OF THE AMOUNTS PAID BY CLIENT IN THE THIRTY (30) DAYS PRECEDING ANY CLAIM OR \$100,000.
- ii. The limitation set forth in this Section 12.D does not apply to remedies for breach of performance set forth in Section 12.B.

E. Disclaimer. EXCEPT AS PROVIDED HEREIN, QUAD WILL NOT BE LIABLE TO CLIENT, OR TO ANYONE CLAIMING UNDER CLIENT, FOR ANY OTHER LIABILITIES, INCLUDING BUT NOT LIMITED TO, LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT, OR ANY THEORY OF STRICT LIABILITY.

### 13. INDEMNIFICATION

A. Definitions. As used in this Agreement, the following terms have the meanings ascribed to them below:

- i. "**Client Indemnified Party**" means Client, its affiliates, and/or subsidiaries, and/or its and their successors and assigns (collectively, the "**Client Indemnified Parties**").
- ii. "**Quad Indemnified Party**" means Quad, its affiliates, and/or subsidiaries, and/or its and their successors and assigns (collectively, the "Quad Indemnified Parties").

- iii. **“Indemnified Party”** or **“Indemnified Parties”** means, as the case may be, the Client Indemnified Party(ies) or the Quad Indemnified Party(ies).
  - iv. **“Indemnifying Party”** means the Party against which a right to indemnity is asserted under this Section 13.
- B. **General Indemnification**. The Indemnifying Party agrees to indemnify and hold harmless the Indemnified Parties from and against any and all claims, suits, proceedings and actions brought by an unaffiliated third party against an Indemnified Party (collectively, the **“Third Party Claims”**), and any and all damages awarded to such third party in connection with such Third Party Claims and any and all out-of-pocket expenses (including settlement fees and reasonable attorney’s fees) incurred by the Indemnified Party as a result of such Third Party Claims (collectively, the **“Losses”**), to the extent the Third Party Claim results from the Indemnifying Party’s:
- i. bad faith or willful, malicious or intentional wrongdoing in the course of performance under this Agreement;
  - ii. breach of Section 8 (Confidentiality);
  - iii. breach of the data protection obligations set forth in Section 2.G of the Data Services, Use, and Processing Addendum resulting in a Security Incident, or
  - iv. violation of any applicable law, rule, regulation, court order, or consent agreement in the course of performance of the Indemnifying Party’s obligations under this Agreement.
- C. **Indemnification and Remediation by Quad**.
- i. **Quad Indemnity**. Quad agrees to indemnify and hold harmless the Client Indemnified Parties from and against any and all Third Party Claims, and the Losses incurred by the Client Indemnified Parties as a result of a Third Party Claim to the extent the Third Party Claim results from the infringement of the Work on the intellectual property rights of a third party. Quad will not be liable to Client to the extent the Third Party Claim is based on or arises from: (a) Client’s misuse or modification of the Work; (b) Client’s failure to use corrections or enhancements made available to Client that, if used, would avoid such a claim; (c) Client’s use of the Work in combination with any service, product, software or hardware not expressly directed by Quad in writing to be used with the Work; (d) the Client Materials, approvals, or any other information, direction, specifications, or materials provided by Client to Quad; or (e) Third-Party Content.
  - ii. **IP Remediation by Quad**. In addition to Quad’s indemnification obligations under this Section 13.C, if any portion of the Services violates the intellectual property rights of any third party, Quad may, at its option, either: (a) procure for Client a license or right to continue using the Services, (b) modify the Services to make them non-infringing, without loss of any

material functionality, (c) replace the Services with a non-infringing equivalent, (d) refund the Fees paid by Client for the infringing Services, or (e) terminate the relevant Order affected by the infringement.

D. Indemnification and Remediation by Client.

- i. Client Indemnity. Client agrees to indemnify and hold harmless the Quad Indemnified Parties from and against any and all Third Party Claims, and the Losses incurred by the Quad Indemnified Parties as a result of a Third Party Claim to the extent the Third Party Claim results from: (a) the infringement of the Client Materials, or of Quad's use of the Client Materials in performing the Work, on the personal or property rights, including intellectual property rights, of a third party; (b) the inaccuracy of any information supplied by Client to Quad concerning Client's products and services (including those within the Client Materials), a competitor's products or services, or information concerning Client's industry, product or service category, (c) the libelous or obscene nature of the Client Materials; (d) Client's products, services, Client Materials, or use of any of the foregoing, including without limitation, any and all products liability, safety or health-related claims, or (e) invasion of any person's right to privacy resulting from or relating to Client Materials or Quad's use thereof in the performance of this Agreement. Client will not be liable to Quad to the extent the Third Party Claim is based on: (x) Quad's misuse or modification of the Client Materials, except as such misuse or modification may have been authorized or directed by Client or contemplated as part of the Work; (y) Quad's failure to use corrections or enhancements made available to Quad by Client in writing and without cost to Quad that, if used, would avoid such a claim; or (z) Quad's use of the Client Materials in combination with any service, product, software or hardware that Client expressly directs Quad not to use with the Client Materials.
- ii. IP Remediation by Client. In addition to Client's indemnification obligations under this Section 13.D, if any portion of the Client Materials violates the intellectual property rights of any third party, Client may, at its option, either: (a) procure for Quad a license or right to continue using the Client Materials; (b) modify the Client Materials to make them non-infringing, without loss of any material functionality; or (c) replace the Client Materials with a non-infringing equivalent.

E. General Exceptions. Notwithstanding any indemnification obligations set forth in this Agreement, the Indemnifying Party's obligations will not extend to Third Party Claims to the extent: (i) such Third Party Claim is caused by the negligence or misconduct of the Indemnified Party, (ii) such Third Party Claim arises from an Indemnified Party's failure to comply with any of its obligations set forth in this Agreement, or (iii) both Parties would be obligated to indemnify the other Party under the indemnity obligations stated above for the same Third Party Claim.

F. Indemnification Procedures.

- i. Notice of Claim. If any Indemnified Party receives notice of the assertion or commencement of any Third Party Claim against the Indemnified Party with respect to which the Indemnified Party asserts that the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) calendar days after the Indemnified Party's receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure.
- ii. Defense. The Indemnifying Party shall have the right to assume and control the defense of the Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel; provided that, if the Indemnifying Party (a) fails to assume the defense within thirty (30) days after the Indemnifying Party receives notice of such Third Party Claim from the Indemnified Party, (b) declines the right to assume the defense by providing written notice thereof to the Indemnified Party, (c) disputes its responsibility to indemnify the Indemnified Party for such Third Party Claim, and/or (d) fails to diligently prosecute the defense of such Third Party Claim, then the Indemnified Party shall have the right to assume the control of the defense and, to the extent that the Indemnifying Party is found to be responsible for such Third Party Claim under this Section 13, the Indemnifying Party shall indemnify the Indemnified Party from and against any Losses incurred by the Indemnified Party in defending such Third Party Claim. In the event that the Indemnifying Party assumes the defense of a Third Party Claim and continues to diligently prosecute the defense of such Third Party Claim pursuant to the foregoing sentence, the Indemnifying Party shall have the right to control the defense of the Third Party Claim, provided that the Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it at the Indemnified Party's expense.
- iii. Settlement. In defense of an indemnification claim, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned, or delayed).
- iv. Cooperation and Mitigation. The Indemnified Party and the Indemnifying Party shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, shall cooperate in good faith to resolve such Third Party Claims, and shall take commercially reasonable efforts to mitigate Losses.

## 14. TERMINATION

- A. Immediate Termination. Either Party may terminate this Agreement immediately upon written notice if the other Party makes an assignment for the benefit of creditors, files a voluntary petition for bankruptcy or reorganization, is adjudicated bankrupt or insolvent or applies for or consents to the appointment of a receiver for it or its property.
- B. Termination for Cause. In the event of a breach of a material obligation under an Order, the non-breaching Party may terminate that Order if the breaching Party fails to cure that breach within sixty (60) days after the non-breaching Party provides written notice of such breach to the breaching Party. Either Party may terminate this Agreement if the other Party breaches any of its material obligations under this Agreement and fails to cure that breach during the sixty (60) days after the non-breaching Party provides written notice of such breach to the breaching Party. In the event of non-payment of any Fees, Expenses or other sums to Quad, Quad shall have the right to terminate an Order upon ten (10) days' written notice unless payment is made during that ten (10) day notice period.
- C. Termination Obligations.
  - i. Transfer Deliverables. On or before the expiration or termination date of an Order, Quad will transfer to Client any Deliverables that are created by Quad under the applicable Order that are in Final Form so long as Quad has received full and complete payment from Client for any outstanding Work.
  - ii. Continuing Obligations. Any reservation, contract, or arrangement made by Quad for Client prior to the expiration or termination date that continues beyond such date will be carried to completion by Quad and paid for by Client in accordance with this Agreement unless Client directs Quad to transfer such reservation, contract, or arrangement to another entity and Client releases and indemnifies Quad, in which event Quad will endeavor to make such transfer, subject to obtaining any necessary consents of third parties. Client will be responsible for any transfer or assignment fees required by the third parties.
  - iii. Invoices. Following expiration or termination of this Agreement or an Order for any reason, Quad will render to Client relevant invoices regarding any unpaid Fees and Expenses as of the date of termination and Client will pay such invoices, including incurred third-party vendor charges and incurred out-of-pocket expenses in accordance with the payment terms.

## 15. PERSONNEL

- A. Independent Contractors. The relationship between the Parties is that of independent contractors. The details of the method and manner in which Quad provides the Work will be under its own control, Client being interested only in the results thereof. Quad is solely responsible for supervising, controlling and directing

the details and manner of the completion of the Work. Nothing in this Agreement gives the Client the right to instruct, supervise, control, or direct the details and manner of the completion of the Work. Quad will make all arrangements and payments for its employees' wages, insurance, worker's compensation, tax withholdings and benefits, and Client will do the same for its own employees.

- B. Agents. Quad or, at its direction, its subsidiaries, affiliates and related entities or subcontractors (collectively, "**Agents**") will perform the Work. To the extent that Quad uses any Agents to perform any of the Work, Quad will be responsible for all acts of any of its Agents in the course of performance under this Agreement.
- C. Personnel Assignment. Quad reserves the right to determine which personnel will be assigned to perform the Work, and to replace or reassign such personnel as necessary to comply with its obligations hereunder. Quad employees assigned to perform Services on Client's behalf are not authorized to make additional agreements that modify or bind Quad to additional obligations beyond the scope of this Agreement.
- D. Employee Conduct. Whenever present on the other Party's premises, each Party will provide and make available to the on-site employees all applicable on-site policies and procedures ("**Employee Guidelines**"), and such Party will use commercially reasonable efforts to ensure that its employees will comply with the Employee Guidelines while on a Party's premises.
- E. Employee Non-Solicitation. While this Agreement is in effect and for one (1) year thereafter, the Parties agree that neither will, without the other Party's consent, directly or indirectly, solicit, recruit, or employ any employee or affiliate of the other Party that becomes known to them through the performance of this Agreement. The non-solicitation obligations will not apply to responses to general solicitations; provided that the employee has no involvement with this Agreement, does not have direct or indirect oversight or control of the relationship with the other Party, and does not disclose or use confidential or proprietary information of the other Party.

## **16. ASSIGNMENT; CHANGE OF CONTROL; CHANGE TO BUSINESS**

- A. Assignment. This Agreement will inure to the benefit of and will be binding upon the Parties hereto and their permitted successors and assigns. Neither Party will assign the Agreement or any obligation hereunder (other than as set forth in Section 16.B) without the prior written consent of the other Party, which consent will not be unreasonably withheld, delayed or conditioned (for clarity, as a condition to any such assignment, the applicable Party has a right to conduct a credit review and approval of the potential assignee and to withhold consent if the credit of the potential assignee does not satisfy the requirements of such Party). Any attempt to assign the Agreement in violation of this Section is void.
- B. Change of Control. To the extent there is a change of control of either Party, by merger, operation of law, or otherwise, notice will be immediately given to the other Party of such change of control, and such surviving entity (if any) will continue to



Agreement by a Force Majeure Event, it will continue to use commercially reasonable efforts to recommence performance whenever and whatever extent possible without delay. A “**Force Majeure Event**” means the occurrence of an event or circumstance beyond the reasonable control of a Party, including without limitation: (i) explosions, fires, flood, earthquakes, catastrophic weather conditions, pandemics, or other elements of nature or acts of God; (ii) national or state emergencies, acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (iii) delays or failures caused by the other Party or the other Party’s performance or third-party nonperformance; (iv) acts of federal, state, local or foreign governmental authorities or courts; (v) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (vi) failures or fluctuations in electrical power or telecommunications service or equipment; or (vii) availability and/or pricing of materials required for production that are dependent upon conditions of supply and demand.

- D. Publicity. All advertising, press releases, public announcements and public disclosures by either Party relating to the Agreement which includes the other Party’s name, trade names, trademarks, logos, service marks or trade dress will be coordinated with and subject to approval by both Parties prior to release; provided, however, that: (i) either Party may indicate to third parties that Quad is providing services to Client; and (ii) Quad may use Client as a reference.
- E. Survival. Any provision that, by its nature or its express terms should survive termination or expiration of this Agreement will survive such expiration or termination.
- F. Severability. If any provision of the Agreement will be held illegal or otherwise unenforceable by a court of competent jurisdiction, such provision will be severed and the remainder of such provision or the entire Agreement will not fail on account thereof, and the balance of the Agreement will continue in full force and effect.
- G. Waiver. No waiver of this Agreement, including any Order, will be effective unless in writing signed by the waiving Party. The waiver of any of the terms or provisions of the Agreement in any one or more instances will not be deemed a permanent waiver thereof or a waiver of this entire Agreement.
- H. No Third-Party Beneficiaries. This Agreement does not create any benefits, rights, claims, obligations, or causes of action in, to, or on behalf of, any Person or entity (including affiliates, third parties, or subcontractors) other than to Client and Quad under the Agreement.
- I. Entire Agreement and Amendments. This Agreement (including any Addenda, Payment Terms Letter, Orders, or other attachments referenced herein), constitute the entire agreement between Quad and Client relating to the transactions contemplated hereby, superseding all prior writings, agreements, representations, statements and understandings. This Agreement may be amended by Quad and made publicly available to Client.