



Standard Terms for FEC Procurement of Graphic Design, Photography, Illustration and/or Writing Services

Effective June 1, 2024, these **Standard Terms for Procurement of Graphic Design, Photography, Illustration and/or Writing Services** (the “Standard Terms”) shall apply to the procurement of all such services and any Work Product developed in whole or in part in connection with those services (collectively, the “Services) by **Florida Equine Publications, Inc. d/b/a Florida Equine Communications (“FEC”)**. In consideration for FEC’s agreement to procure Services from a person and/or entity (a “Provider”), Provider agrees to be legally bound by the Standard Terms and agrees that the Standard Terms shall govern the relationship between Provider and FEC.

1. PERFORMANCE OF SERVICES. Pursuant to one or more separate written communications between FEC and Provider establishing the Services to be performed by Provider and the amount Provider will be paid for the Services (the “Scope of Work”), Provider will timely perform the Services to FEC’s satisfaction.

2. PAYMENT. FEC shall pay Provider the total amount specified in the Scope of Work upon Provider’s timely completion of the Services to FEC’s satisfaction, subject to any payment schedule or terms otherwise set forth in the Scope of Work.

3. WORK PRODUCT OWNERSHIP. Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively, the “Work Product”) developed in whole or in part by Provider in connection with the Services will be the exclusive property of FEC. Upon request, Provider will execute, within a reasonable period of time, all documents necessary to confirm or perfect the exclusive ownership of FEC to the Work Product.

4. CONFIDENTIALITY. Provider, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of Provider, or divulge, disclose, or communicate in any manner, any information that is proprietary to FEC. Provider and its employees, agents, and representatives will protect such information and treat it as strictly confidential. Any oral or written waiver by FEC of these confidentiality obligations which allows Provider to disclose FEC’s confidential information to a third party will be limited to the single occurrence permitted by that waiver, and the confidentiality clause will

continue to be in effect for all other occurrences. Upon termination of the Services, Provider will return to FEC all records, notes, documentation and other items that were used, created, or controlled by Provider during performance of the Services.

5. INDEPENDENT CONTRACTOR. Provider and FEC are and will remain independent contractors as to each other, and no joint venture, partnership, agency, employment, or other relationship which would impose liability upon one party for the act or failure to act of the other will be created or implied. Provider agrees and acknowledges that Provider's relationship with FEC is not an employment relationship, and Provider will not be covered under FEC's employee benefit plans, including any disability, worker's compensation or other insurance. Except as expressly set forth herein, each party will bear full and sole responsibility for its own expenses, liabilities, costs of operation and the like. Neither party will have any power to bind the other party or to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party.

6. INDEMNIFICATION. Provider agrees to indemnify and hold FEC harmless from all claims, losses, expenses, fees (including attorney fees), costs, and judgments that may be asserted against FEC arising from or relating to the alleged acts or omissions of Provider and/or Provider's employees, agents, or representatives.

7. WARRANTY. Provider shall provide the Services in a timely and workmanlike manner, meeting generally acceptable standards in Provider's community and region, and will provide a standard of care equal to, or superior to, the care used by service providers similar to Provider on similar projects.

8. DEFAULT. The occurrence of any of the following shall constitute a material default:

- a. FEC's failure to make a required payment when due.
- b. The insolvency or bankruptcy of either party.
- c. The subjection of either party's property to any levy, seizure, general assignment for the benefit of creditors, or application or sale for or by any creditor or government agency.
- d. Provider's failure to perform the Services to FEC's satisfaction in the time and manner provided for in the Scope of Work.

9. ATTORNEYS' FEES AND COLLECTION COSTS. If there is any dispute relating to the Services, the prevailing party is entitled to, and the non-prevailing party

shall pay, the costs and expenses incurred by the prevailing party in the dispute, including but not limited to all out-of-pocket costs of collection, arbitration costs, court costs, and reasonable attorney fees and expenses.

10. REMEDIES. In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any of its obligations (including the failure to make a payment when due), the other party may terminate the Services by providing written notice to the defaulting party. This notice shall describe in sufficient detail the nature of the default. The party receiving such notice shall have 15 days from receipt to cure the default(s). Unless waived in writing by the party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of the Services.

11. FORCE MAJEURE. If performance of the Services or any other obligation hereunder is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. Force Majeure shall include acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

12. DISPUTE RESOLUTION. The parties will attempt to resolve any dispute arising out of or relating to the Services through good faith negotiations. If the matter is not resolved by negotiation within 30 days, any controversies or disputes arising out of or relating to the Services will be resolved by binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction.

13. ENTIRE AGREEMENT. The Standard Terms and Scope of Work contain the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the Services. The Standard Terms and Scope of Work supersede any written or oral agreements between the parties preceding the Scope of Work.

14. SEVERABILITY. If any provision of the Standard Terms is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of the Standard Terms is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

15. AMENDMENT. The Standard Terms and Scope of Work may be modified or amended in writing by mutual agreement between the parties.

16. GOVERNING LAW. The Standard Terms and Scope of Work will be construed in accordance with the laws of the State of Florida.

17. NOTICE. Any notice or communication required or permitted under the Standard Terms shall be sufficiently given if delivered in person, by electronic mail, or by certified mail, return receipt requested, to the address one party has furnished to the other.

18. WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of the Standard Terms or Scope of Work shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of the Standard Terms or Scope of Work.

19. CONSTRUCTION AND INTERPRETATION. The rule requiring construction or interpretation against the drafter is waived. The Standard Terms and Scope of Work will be deemed to be drafted by both parties in a mutual effort.

20. ASSIGNMENT. Provider may not assign, transfer, or subcontract performance of the Services to another person and/or entity without the prior written consent of FEC, which approval shall not be unreasonably withheld.