

snow & ice management association

Definition:

The Snow & Ice Management Association (SIMA) or its Publication, Snow Business Magazine, is referred to herein as “The Owner”.

“Client” refers to the applicant or primary contact indicated on the signature page of the Agreement.

1. Advertisement Display and Services

The Owner agrees to publish the Advertisement on the available Media that is agreed upon in signed agreement.

If the Owner or Client wishes to make changes to this Agreement, adding new orders, changes in billing, or cancellations, must be submitted in writing at least 20 days prior to any deadline and must be signed and agreed upon by both parties in an updated Agreement. Certain changes to specific types of Media may be subject to cancellation fees.

2. Payment

Client shall pay the Owner for publication of the Advertisement on all chosen Media. All fees and payments are due as indicated in the billing terms. In the event if the Client defaults in making the full payment within 60 days, the Owner reserves the right to suspend all forms of current and future scheduled Advertisements until payment is received. All late payments are subject to interest accrued at the rate of 1.5% per month, or up to the maximum amount allowed by law, whichever is greater.

3. Content and Submission

Client shall submit the Advertisements to Owner digitally by indicated Submission Deadlines listed in the Media Kit.

Client shall be solely responsible for submitting the Advertisement in the format required for display and to adhere to the Owner’s submission process. Client acknowledges that Owner will not be responsible or liable for the quality of any portion of the Advertisement that does not meet the established mechanical criteria.

If at any time Client desires to modify its content, It must be submitted at least seven (7) business days prior to the scheduled Submission Deadline.

If the Client does not provide the Advertisement material by the Submission Deadline then the last Advertisement file on record will be used in its place. If none can be found the Client will not have their Advertisement run and no refund will be given.

4. Liability

4.1. Client shall be fully responsible and liable for the content contained in the Advertisement. The Owner is not responsible for, and in no way warrants, guarantees, or ratifies, the representations made or implied in the contents.

4.2. In no event shall either party be liable to the other party for an indirect, incidental, in no consequential, special or exemplary damages, including without limitation, business interruption, loss of or unauthorized access to information, damages for loss of profits, incurred by other party arising out of the services provided under this agreement, even if such party has been advised of the possibility of such damages, in no event will neither party’s liability on any claim, loss or liability arising out of or connected with this agreement shall exceed the amounts paid to owner by client.

5. Acceptance

The Owner reserves the right to review and approve the suitability of the Advertisement submitted. The Owner may reject or cancel any Advertisement for any reason which it believes in good-faith to be detrimental. If the Owner so rejects Client's Advertisement or terminates its display, then this Agreement shall be terminated, and the Owner will return any prepaid advertising fees to Client.

6. License

Client grants the Owner a limited, non transferable, nonexclusive license to copy, use, store, set up, publicly display, publicly perform and transmit the Client’s Advertisement (including any tradenames, trademarks and service marks shown).

Nothing in this Agreement grants Client any right to use the name, trademark, or service mark of Owner in any advertisement, sales promotion, or press release without Owner’s prior written approval.

7. Proprietary Rights

Client acknowledges that the contents of the Owner Media, including, without limitation, all trade names, trademarks, service marks, content, text, images, software, functionality, page and other design and layout, media and other materials therein, is proprietary to or licensed by the Owner, protected under copyright, trademark and other intellectual property laws and such contents may not be reproduced without the consent of the Owner.

Client retains all right, title and interest including copyright and other proprietary or intellectual property rights in the content of the Advertisement, Client's trade names, trademarks and service marks therein.

8. Client Warranty.

Client warrants to Owner that:

- 8.1.** Client has the right and authority to enter into and perform its obligations under this Agreement;
- 8.2.** the Advertisement shall conform to the description and specifications set forth by Owner;
- 8.3.** the Advertisement shall not constitute or be the subject of a notice or claim of any false designation of origin, false advertising or unfair competition under the law of any country;
- 8.4.** the Advertisement does not and shall not contain or be alleged to contain any content, work, name, mark, designation, materials or link that actually or potentially violates any applicable law or regulation, or infringes any proprietary, intellectual property, contract or tort right of any person or misappropriates a person's trade secret, name, likeness or identity;
- 8.5.** the Advertisement contains no viruses, worms, malicious code, trap doors, back doors, timers, clocks, counters, FTP servers, or other limiting routines, instructions or designs, and no web beacons, web bugs, spy ware or other similar hidden or transparent code, script, or routine designed to gather, track or transmit information about Owner or the users of the Website; and

9. Disclaimer

The services and site are provided "as is" without warranty of any kind, express or implied and any use of the services or Website are at Client's sole risk. Owner does not warrant that the services or Website will be uninterrupted or error free, nor does Owner make any warranty as to the performance or any results that may be obtained by use of the services or Website. Owner makes no other warranties, express or implied, including, without limitation, any implied warranties of merchantability and fitness for a particular purpose, concerning the subject matter of this agreement.

10. Termination

- 10.1.** Either party may terminate this Agreement for convenience by providing written notice ("Termination Notice") to the other party by the deadline date for space reservation.
- 10.2.** If a party violates its obligations to be performed under this Agreement, the other party may terminate the Agreement by sending a twenty (20) day notice in writing. Upon receiving such notice, the defaulting party shall have twenty (20) days from the date of such notice to cure any such default. If the default is not cured within the

required twenty (20) day period, the party providing notice shall have the right to terminate this Agreement.

- 10.3.** If Client is participating in a Power Buy Discount, The prices quoted in the agreement are discounted based on a commitment to run in all six issues. Should the Client cancel for any reason, SIMA will invoice the balance of the non-discounted page rate for any ads that have run and a 50% penalty will be assessed for any ads that are canceled prior to their submission deadline.

11. Assignment

Owner shall not assign any of their rights under this Agreement, or delegate the performance of any of the obligations or duties hereunder, without the prior written consent of the Client and any attempt by Owner to so assign, transfer, or subcontract any rights, duties, or obligations arising hereunder shall be void and of no effect.

12. Severability

If any provision of this Agreement shall be held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and, the remaining provisions of this Agreement shall remain in full force and effect.

13. Indemnification

Each party shall at its own expense indemnify and hold harmless, and at the other party's request defend such party its affiliates, subsidiaries, successors and assigns officers, directors, employees, sublicensees, and agents from and against any and all claims, losses, liabilities, damages, demand, settlements, loss, expenses and costs (including attorneys' fees and court costs) which arise directly or indirectly out of or relate to (a) any breach of this Agreement, or (b) the gross negligence or willful misconduct of a party's employees or agents;

14. Waiver

The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.