

SUCCESS[®]

What *Achievers* Read™

TERMS & CONDITIONS

A. Publisher's Right to Reject, Cancel or Terminate Orders

SUCCESS magazine reserves the right at its absolute discretion, and at any time, to cancel any advertising order or reject any advertising copy, whether or not the same has already been acknowledged and/or previously published. In the event of such cancellation or rejection by *SUCCESS*, advertising already run shall be paid for at the rate that would apply if the entire order were published.

In addition, *SUCCESS* reserves the right to remove from selected copies of the publication advertisements containing matter that subscribers have deemed objectionable.

SUCCESS, at its absolute discretion, may terminate its relationship with Advertiser and/or Agency for the breach of any of the terms hereof, including without limitation a breach based on the failure on the part of either Advertiser or Agency to pay each bill by its due date. Should *SUCCESS* terminate its relationship with Advertiser and/or Agency, all charges incurred together with short-rate charges shall be immediately due and payable. Furthermore, in the event Advertiser or Agency breaches, *SUCCESS* may decide to exercise its right to (a) cancel its recognition of Agency, thereby causing Agency to lose claim to any commission for any further advertising placed with *SUCCESS* on behalf of Advertiser or any other client, and/or (b) refuse to publish any or all of Advertiser's advertising.

SUCCESS will not be bound by any conditions whatsoever appearing on order blanks or copy instructions submitted by or on behalf of Advertiser when such conditions conflict with any provisions contained in the *SUCCESS* Rate Card or with its policies. Scheduled publishing dates are subject to change without notice and based solely on the discretion of *SUCCESS*.

All orders are accepted subject to acts of God, such as fires, accidents or beyond the control of *SUCCESS* from partially or completely producing, publishing or distributing *SUCCESS* magazine.

B. Advertiser's Failure to Run Advertising/ Short-Rate

All agreements for advertising frequency discounts require that the specified number of advertisements be published within a twelve-month period. In the event of Advertiser's or its Agency's cancellation of any portion of any advertising order/contract or failure to have published the specified number of advertisements, or if at any time *SUCCESS* in its reasonable judgment determines that Advertiser is not likely to publish the total amount of advertising specified during the term of the agreement, any rate discount will be retroactively nullified, including for previously published advertisements, and may result in a short-rate. In such event, Advertiser and/or Agency must reimburse *SUCCESS* for the short-rate (which is the difference between the rate charged on the contracted frequency and the higher rate based on the reduced frequency of advertisements actually published and paid for) within 30 days of invoice thereof and Advertiser will thereafter pay for advertising at the published rate(s) as applicable. Any

additional marketing opportunity executed by *SUCCESS* in reliance on advertising that is canceled will be paid for by Advertiser at the fair market rate for such opportunity.

C. Restrictions on Advertiser's Cancellation of Advertising Orders

Orders for inside or outside cover pages are noncancelable. Options on cover positions must be exercised at least 30 days prior to four-color closing date. If an order is not received by such date, the cover option automatically lapses. Orders for all inside advertising units are noncancelable less than 15 days prior to closing date. Orders for supplied inserts are noncancelable the first of the fourth month preceding the date of issue. Orders for all *SUCCESS*-produced inserts are noncancelable without the written agreement of *SUCCESS*. Should *SUCCESS* agree to cancel an existing order, Advertiser will be responsible for the cost of any work performed or materials purchased on behalf of Advertiser, including the cost of services, paper and/or printing.

D. Advertising Positioning at Publisher's Discretion

Orders for advertising containing restrictions or specifying positions, facings, editorial adjacencies or other requirements may be accepted and published, but such restrictions or specifications are at Publisher's sole discretion.

E. Labeling of Advertisements

Advertisements that simulate editorial content must be clearly defined and labeled "ADVERTISEMENT" or "PROMOTION" or "SPECIAL ADVERTISING SECTION" at the top of the advertisement, and *SUCCESS* may, in its discretion, so label such copy.

F. Inserts

An accurate facsimile of any furnished insert must be submitted to *SUCCESS* for review prior to the printing of the insert. *SUCCESS* is not responsible for errors or omissions in, or the production quality of, furnished inserts. Advertiser and/or Agency shall be responsible for any additional charges incurred by *SUCCESS* arising out of Advertiser's and/or Agency's failure to deliver furnished inserts pursuant to *SUCCESS*'s specifications. In the event that *SUCCESS* is unable to publish the furnished insert as a result of such failure to comply, Advertiser and/or Agency shall remain liable for the space cost of such insert.

G. Errors in or Omissions of Advertisements

In the event of *SUCCESS* magazine's errors in or omissions of any advertisement(s), including but not limited to those caused by force majeure, *SUCCESS* magazine's liability shall be limited to a credit of the amount paid attributable to the space of the error and in no event shall exceed the total amount paid to *SUCCESS* for the advertisement, provided that the error/ omission is brought to the Publisher's attention no later than 60 days after the advertisement is first published. However, if a copy of the advertisement was provided or reviewed by Advertiser, *SUCCESS* shall have no liability.

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H. Trademarks

The titles and logos of the magazines published by *SUCCESS* are registered trademarks. Neither the titles nor the logos of the magazines may be used without the express written permission of *SUCCESS*.

I. Indemnification of Publisher

Advertiser and its Agency, if there be one, each represents that it is fully authorized and licensed to use (a) the names and/or portraits or pictures of persons, living or dead, or things; (b) any trademarks, copyrighted or otherwise private material; and (c) any testimonials contained in any advertisement submitted by or on behalf of the advertiser and published in *SUCCESS*, and that such advertisement is neither libelous, an invasion of privacy, nor in any way unlawful to any third party.

Advertiser and its Agency, if there be one, each represents that any advertising or other material (including product samples) submitted by Advertiser or Agency complies with all applicable laws and regulations and does not violate the personal or proprietary rights of, and is not harmful to, any person, corporation or other entity. As part of the consideration to induce *SUCCESS* to publish such advertisement, Advertiser and its Agency, if there be one, each agrees jointly and severally to indemnify and save harmless *SUCCESS* magazine, and its employees and representatives, against all liability, loss, damage, and expense of any nature, including attorneys' fees, arising out of any actual or potential claims for libel, invasion of privacy, copyright or trademark infringement and/or any other actual or potential claims or suits that may arise out of the copying, printing, publishing, distribution or transmission of such advertisement (regardless of whether *SUCCESS* participated in the creation of such advertisement).

J. Responsibility for Payment of Advertising Bills

In the event an order is placed by an Agency on behalf of Advertiser, such Agency warrants and represents that it has full right and authority to place such order on behalf of Advertiser and that all legal obligations arising out of the placement of the advertisement will be binding on both Advertiser and Agency. Advertiser and its Agency, if there be one, each agrees to be jointly and severally liable for the payment of all bills and charges incurred for each advertisement placed on Advertiser's behalf. Advertiser authorizes *SUCCESS*, at its election, to tender any bill to Agency, and such tender shall constitute due notice to Advertiser of the bill and such manner of billing shall in no way impair or limit the joint and several liability of Advertiser and Agency. Any bill tendered by *SUCCESS* shall constitute an account stated unless written objection thereto is received by *SUCCESS* within ten (10) days from the rendering thereof. Payment by Advertiser to Agency shall not discharge Advertiser's liability to *SUCCESS*. The rights of *SUCCESS* shall in no way be affected by any dispute or claim between Advertiser and Agency. Advertiser and Agency agree to reimburse *SUCCESS* for its costs and attorneys' fees in collecting any unpaid advertising charges. Advertiser confirms that it has appointed Agency, if one is specified, to be its authorized representative with respect to all matters relating to advertising placed on Advertiser's behalf with the understanding that Agency may be paid a commission.

K. No Assignment of Advertising

Advertiser and its Agency may not use any advertising space either directly or indirectly for any business, organization, enterprise, product, or service other than that for which the advertising space is provided by *SUCCESS*, nor may Advertiser or Agency authorize any others to use any advertising space.

L. Republication of Advertisements

Advertiser and Agency agree that any advertisements published may, at *SUCCESS* magazine's option, be republished or reused by *SUCCESS* or its agents in any form in whole or in part in all media now in existence or hereafter developed, whether or not combined with material of others. The copyright in any advertisement created by *SUCCESS* is owned by *SUCCESS* and may not be otherwise used by Advertiser or third parties without Publisher's prior written consent.

M. Advertising Rates

Rates contained in advertising orders that vary from the rates listed on the *SUCCESS* Rate Card shall not be binding on *SUCCESS* and the advertisements ordered may be inserted and charged for at the actual schedule of rates. Announcement of any changes in rates will be made thirty (30) days in advance of the closing date for the first issue affected by such new rates. Advertising in issues thereafter will be at the rates then prevailing.

N. Rate Base Guarantees

Rate base guarantees are made on an annual (twelve-month) contract-year average.

O. Terms of Sale

An agency commission of 15% will be allowed for recognized agencies. Payment is due thirty (30) days from the date of invoice. Interest will be charged at a rate of 1.5% per month on past due balances. *SUCCESS* magazine may at its option require cash with order or change payment terms.

P. Choice of Law and Forum

All issues relating to advertising will be governed by the laws of the State of Texas applicable to contracts to be performed entirely therein. Any action brought by Advertiser against *SUCCESS* relating to advertising must be brought in the state or federal courts in Denton County, Texas. The parties hereby consent to the jurisdiction of such courts in connection with actions relating to advertising.

Q. Entire Agreement

The foregoing terms and conditions shall govern the relationship between *SUCCESS* and Advertiser and/or Agency. *SUCCESS* has not made any representations to Advertiser or Agency that are not contained herein. Unless expressly agreed to in writing by *SUCCESS*, no other terms or conditions in contracts, orders, copy, or otherwise will be binding on *SUCCESS* magazine. Failure by *SUCCESS* to enforce any of these provisions shall not be considered a waiver of such provision.