

1. Technical Specifications

- A. All Advertisements and the format thereof are subject to MGMA-ACMPE's prior approval. MGMA-ACMPE reserves the right to reject or cancel any Advertisement prior to publication or thereafter for any reason at any time without liability. If MGMA-ACMPE exercises such right for reasons other than a breach of this Contract by Advertiser or Agency, it will refund all amounts paid by Advertiser or Agency hereunder.
- B. Advertisements that, in the sole judgment of MGMA-ACMPE, are not immediately identifiable as advertisements may be labeled as advertisements by MGMA-ACMPE.
- C. All Advertisements are subject to the rates, space units and specifications in effect and set forth in the Media Kit, which are subject to change by MGMA-ACMPE and are made a part of this Contract. MGMA-ACMPE will supply the Agency or Advertiser with complete technical specifications upon receipt and acceptance of executed contract.
- D. Mechanical specifications, as outlined by MGMA-ACMPE, must be followed. All such materials must be received by MGMA-ACMPE by the materials deadline in the Media Kit. If advertising materials are not received by the materials deadline, MGMA-ACMPE will charge the Advertiser/Agency for the held placement space. If changes or additions are accepted after such deadline, there will be a minimum \$75 art charge for any changes or additions made to finished art or copy by MGMA-ACMPE Advertising staff. Determination of whether changes or additions will be accepted shall be made by MGMA-ACMPE in its sole discretion.
- E. If MGMA-ACMPE is unable to set any Advertisement in the type or style requested, it may set such Advertisement in such other type or styles as in its opinion most nearly corresponds thereto, and the Advertisement may be inserted without submission of proof.
- F. Where material furnished by the Advertiser or Agency occupies more space than specified in the insertion order, or this agreement, MGMA-ACMPE shall communicate with the Advertiser or Agency for definite instructions. If MGMA-ACMPE is unable to secure definite instructions from the Advertiser or Agency, it has the discretion to reduce the material to fit or omit the advertising.
- G. This executed agreement must be received by MGMA-ACMPE prior to the space deadline specified in the Media Kit for the Advertisement to be placed. To qualify for multiple insertion rates, insertion dates and advertising size must be agreed to in advance. Advertisements may be altered by Advertiser/Agency up to thirty (30) days before the beginning date the Advertisement is scheduled to run.
- H. All materials should be submitted to MGMA-ACMPE electronically and are subject to MGMA-ACMPE approval for mechanical specifications and content.

2. Terms of Payment

- A. For printed publications, one tear-sheet containing the Advertisement shall be sent to the Advertiser or Agency with the invoice. Copies of printed publications may be purchased by contacting MGMA-ACMPE. Invoicing will occur upon fulfillment of print advertisements.
- B. For electronic ads invoicing will occur upon receipt of advertising contract. Upon request by the Advertiser or Agency, performance stats will be provided by MGMA-ACMPE monthly, quarterly, or annually.
- C. Advertiser or Agency shall designate which party shall be invoiced for the advertising charges. Notwithstanding which party is invoiced for the charges, Advertiser and Agency shall be jointly and severally liable for all advertising charges, delivery charges and other charges hereunder, including any costs of collection incurred by MGMA-ACMPE, which costs shall include MGMA-ACMPE's attorneys' fees. Notwithstanding anything to the contrary contained in this Contract, all first-time Advertisers must prepay for Advertisements hereunder. If Advertiser's or Agency's credit is or becomes impaired, MGMA-ACMPE may require payment in advance. Payment by Advertiser to Agency shall not constitute payment to MGMA-ACMPE.
- D. All amounts due under this Contract shall be paid to MGMA-ACMPE at 104 Inverness Terrace East, Englewood, Colorado 80112-5306; together with this Contract/ within 30 days after the date of MGMA-ACMPE's invoice. The postmark date on the envelope containing the payment, properly addressed to MGMA-ACMPE, shall be considered the date when payment is made.

- E. In the event payment is not made in accordance with this Contract, Advertiser and Agency agree to pay interest on any unpaid balances at the rate of one and one-half percent (1.5%) per month, compounded monthly, not to exceed the maximum rate imposed by applicable law.
- F. Advertiser or Agency agrees to prepay transportation charges on all materials sent to MGMA-ACMPE. If such charges are not prepaid, MGMA-ACMPE may either reject the materials or accept them and pay the charges. In the latter case Advertiser or Agency shall promptly reimburse MGMA-ACMPE.
- G. Contracts are cancelable by the Advertiser or Agency only upon written notice to MGMA-ACMPE provided at least forty-five (45) days before the beginning date the Advertisement is scheduled to run. In the event that Advertiser provides said cancellation notice, Advertiser will be subject to a short-run cancellation charge. This charge will be based on the amount of the total discount provided to Advertiser for all contracted insertions, minus the discount that would apply for actual quantity of insertions placed by Advertiser prior to cancellation.
- H. All sales, use and other taxes applicable hereto are the responsibility of Advertiser and Agency.
- I. This Contract is gross commissionable. A commission of fifteen percent (15%) of gross billing, when applicable, will be paid by MGMA-ACMPE to recognized advertising agencies, provided payment is made within thirty (30) days of invoice date. MGMA-ACMPE will invoice Agency net of commission. Any direct billing to the Advertiser will be at gross rates. No commission is allowed on additional work performed by MGMA-ACMPE.

3. Responsibility/Liability

- A. In no event shall MGMA-ACMPE be held liable as the result of any error, delay or omission beyond MGMA-ACMPE's reasonable control, including, without limitation, any strike, fire, accident, or other acts of God.
- B. MGMA-ACMPE shall not be liable or responsible for the content of the Advertisement, including any errors or omissions contained in the Advertisement submitted to it or for the production quality of the Advertisement. Advertisement in MGMA-ACMPE's publications or on MGMA-ACMPE's Web site shall not constitute or be used to imply an endorsement by MGMA-ACMPE of Advertiser's product or services
- C. MGMA-ACMPE's liability, if any, relating to or arising out of the placement of the Advertisement in the publication or any error, delay, or omission relating thereto shall not exceed the amounts actually paid by Advertiser and/or Agency for placing the Advertisement and in no event shall MGMA-ACMPE be liable for any loss of income, profit or direct or indirect consequential damages of any nature.
- D. MGMA-ACMPE makes no representations or warranties with respect to the quality or the appearance of the Advertisement, and in no event shall MGMA-ACMPE be responsible for the production quality of any materials or inserts provided to MGMA-ACMPE. Advertiser/Agency shall be responsible for any additional costs incurred by MGMA-ACMPE resulting from the failure of any materials or inserts furnished to MGMA-ACMPE to meet MGMA-ACMPE's specifications or the failure to deliver the Advertisement in a timely manner and according to MGMA-ACMPE's technical specifications. In the event that MGMA-ACMPE is unable to display on its Web site, or publish the furnished materials or inserts as a result of their failure to meet such specifications, Advertiser and Agency shall remain liable for the applicable charges as if the Advertisement had run.
- E. Advertiser and Agency represent and warrant that (i) all talent consents or releases have been obtained, to the extent required, and all necessary consents and permissions have been obtained for the Advertisement to be used and, if applicable, displayed on the Web Site and for the URL link to be made, (ii) they have the right and authority to place the Advertisement contracted for herein and, if applicable, to permit the URL link to be made and the content of the linked site to be used and displayed, (iii) nothing contained in the Advertisement or, if applicable, the URL link or the linked site, or use of the Advertisement or, if applicable, display of the Advertisement, the URL link or the linked site by MGMA-ACMPE under this Contract, will violate or infringe upon the rights of any person or entity, including, without limitation, any copyright, trademark, or right of publicity or privacy, or libel, defame or disparage any person or entity, or violate any law, rule or regulation, including, without limitation, any U.S. Postal regulations and (iv) the Advertisement and, if applicable, the URL link and the content of the linked site, do not contain any instructions, information or recommendations that, if followed or relied on, would result in injury to any person, property or thing.
- F. Advertiser and Agency, and each of them, shall indemnify and hold harmless and, upon MGMA-ACMPE's request, defend MGMA-ACMPE and its directors, officers, employees, agents, members or volunteers

from any claim, loss, judgment, liability, damage, cost or expense (including reasonable attorneys' fees), arising out of the use or display or publication of Advertisement (including, without limitation, any claims related to defects in or failure of goods or services provided by Advertiser), its placement in MGMA-ACMPE's publications or on its WebSite, the breach or alleged breach of any warranty, representation or agreement by Advertiser and/or Agency, or as the result of any act or omission of Advertiser and/or Agency relating to any link relating to the Advertisement or otherwise under this Contract. This indemnification obligation shall survive the termination or expiration of this Contract.

- G. Materials are held for one year by MGMA-ACMPE, then destroyed, unless their return is requested in writing and received by MGMA-ACMPE. Returns will be made at Advertiser's expense. Advertiser and Agency assume all risk of loss and costs in connection with submissions under this Contract.

4. Miscellaneous.

- A. This Contract, together with the Media Kit, constitutes the entire agreement between Advertiser/Agency and MGMA-ACMPE and supercedes all prior agreements and understandings relating thereto. This Contract may not be modified or changed without MGMA-ACMPE's written consent. In no event shall MGMA-ACMPE be bound by any terms or conditions sought to be imposed by Advertiser or Agency, whether in a purchase order, instructions or otherwise, relating to the subject matter hereof.
- B. Advertiser/Agency agrees that this Contract is non-exclusive and that additional Advertisers (including those who may compete with Advertiser) had been and will continue to be solicited and granted identical or similar rights to Advertiser.
- C. This Contract shall be governed by the laws of the State of Colorado. This Contract will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded.
- D. The relationship of Advertiser/Agency and MGMA-ACMPE shall be solely that of independent contractors and nothing herein shall be construed to create or imply any relationship of employment, agency, partnership, joint venture or any other relationship.
- E. Except as otherwise provided, all notices and other communications provided for herein shall be in writing and shall be deemed effective if and when sent by first class mail, postage prepaid, addressed to the parties at the addresses set forth above for Advertiser and Agency and for MGMA-ACMPE, at 104 Inverness Terrace East, Englewood, Colorado 80112-5306; Attn: Advertising.
- F. No failure of any party to give notice or seek a remedy for any violation of this Contract or to insist on strict performance hereunder shall reduce, impair, or affect such party's rights to later seek such remedy or insist on such performance with respect to the same or other violation or failure, regardless of such party's knowledge or lack of knowledge thereof.
- G. This Contract may not be assigned by Advertiser or Agency without MGMA-ACMPE's written consent.
- H. The parties shall endeavor in good faith to resolve any disputes which may arise regarding this Contract. If the parties cannot so agree among themselves, in addition to their respective rights hereunder, either party may initially submit their dispute to confidential mediation by a mutually acceptable third party in the Denver, Colorado business community. If they cannot agree on such a person within five (5) business days after the written request for mediation is given by an allegedly aggrieved party to the other party, or, within thirty (30) business days following engagement of a mediator remain in disagreement, then any party may submit all controversies, claims and disputes arising from this Contract to confidential binding arbitration in Denver, Colorado pursuant to the Commercial Arbitration Rules of the American Arbitration Association then in force, or pursuant to such other rules or procedures to which the parties may agree. In the event of any such mediation or arbitration proceedings between the parties hereto, the prevailing party in such proceeding shall be awarded, in addition to the amount of any judgment or other award entered therein, the costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in such arbitration proceedings. This provision shall survive termination of the Agreement.
- I. Advertiser shall have the right to change agencies upon written notice to MGMA-ACMPE of such change and provided that the new agency agrees to be bound by this Contract.