

## Terms & Conditions

The following terms and conditions ("Terms and Conditions") together with the insertion order ("Insertion Order") to which these Terms and Conditions are attached (collectively referred to as the "Agreement") sets out the agreement between ROQ Digital Media Limited ("Company") and the advertiser and/or agency listed in the Insertion Order ("Advertiser" or "Agency"):

1. Terms of Payment. Payments are due to the Company by the Advertiser within 30 days after the date of invoice unless otherwise indicated in the Insertion Order. The Company shall invoice and be paid by the Advertiser based upon Company's reports (or as otherwise agreed) for all services agreed upon under the Insertion Order. All prices set out in the Insertion Order are exclusive of VAT.

2. Term. The Term of this Agreement shall be as specified in the Insertion Order.

3. Serving of Advertisement(s). The Company shall serve the advertisement(s) as specified in the Insertion Order ("Advertisement(s)"). The Company estimates, but cannot guarantee that the Advertisement(s) will be served in the time period specified in it. The campaign's stats and performance indicators in respect of the Advertisement(s) will always be based on the Company's numbers, unless stated otherwise. The Company also reserves the right to refuse to provide services and/or cancel any Advertisement(s). Refusals, cancellations or delays in delivery of service shall be subject to Clause 7 below. Further, if the Advertiser fails to make any payment in a timely manner, the Company immediately shall be relieved from any further obligation to serve any Advertisement(s) specified in the Insertion Order; however, the Advertiser shall not be relieved of any of its payment or other obligations under this Agreement.

4. Advertisement(s).

(a) Delivery of Advertisement(s). The Advertiser will provide to the Company all materials for the Advertisement(s) in accordance with the Company's then-current policies. The Advertiser acknowledges that the Company may use third party platforms and service providers ("Third Party Providers") to serve the Advertisement(s) and the Advertiser agrees to comply with and be bound by any terms, policies and specifications of such Third Party Providers to the extent that they relate to the serving of Advertisement(s) under this Agreement. If and to the extent that a delivered Advertisement(s) does not conform to the format specifications of the Company and Third Party Providers ("Applicable Specifications"), the Advertiser shall be responsible for altering the materials so that they meet the Applicable Specifications. In the event that the Advertiser does not provide the Company with compliant materials, the Company reserves the right to make technical modifications as necessary to conform to the Advertisement(s) to such Applicable Specifications. The Company hereby grants to the Advertiser a non-exclusive, non-transferable, royalty-free worldwide license to use any and all such technical modifications to the Advertisement(s) created by the Company (the "Company Work Product"). The Advertiser will grant the Company access to place certain scripts and codes for tracking purposes and data optimization in order to deliver campaigns and optimize them accordingly. In the unlikely event the Advertiser is unable to provide access the Company shall not be held liable for any optimisation and conversions problems or poor performance. The Company may use third party tracking tools, alternative advertising formats and data companies to deliver certain campaigns. The Advertiser agrees to grant the Company access to these to deliver campaigns. The Company's decision in method of serving, technical modifications and changes are final.

(b) License For the Term of this Agreement. The Advertiser hereby grants to the Company a non-exclusive, royalty-free, worldwide license to reproduce, distribute, create derivative works of, publicly perform, publicly display and digitally perform the Advertisement(s) and its constituent parts, including trademarks, service marks, logos or other commercial product or service designations (collectively "Marks") contained in the Advertisement(s). The Advertiser also grants to the Company the limited right to use an image of the Advertisement(s) and the Advertiser's Marks for purposes of the Company's marketing, promotion and content directories or indexes, and in electronic or printed advertising, publicity, press releases, newsletters and mailings about the Company's website or the Company. The Company may make a reasonable number of archival or back-up copies of the Advertisement(s). Except with respect to the Advertisement(s), title to and ownership of all intellectual property rights relating to the Company's website and the Company Work Product shall remain with the Company.

5. Advertising Agency. In the event that an advertising agency is executing this Agreement on behalf of a third party advertiser (the Advertiser), the party executing this Agreement as agent (the Agency) shall be jointly and severally liable with the Advertiser for all amounts owing hereunder and the compliance with the terms of this Agreement.

## 6. Advertiser's Representations and Indemnification.

(a) Representations. The Advertiser represents and warrants that it is solely responsible for any legal liability arising out of or relating to the Advertisement(s) and any material to which users can link through the Advertisement(s). Advertiser represents and warrants that the Advertisement(s), as provided to Company (and the serving of such Advertisement(s) by the Company as contemplated in the Insertions Order), and any website to which such Advertisement(s) shall link, will: (i) not infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or right of publicity or privacy; (ii) not violate any applicable law, statute, ordinance or regulation, including, without limitation, laws and regulations governing content or export control; (iii) not be or contain material which is defamatory or trade libelous; (iv) not be or contain material which is lewd, pornographic or obscene; (v) not violate any laws regarding unfair competition, antidiscrimination or false advertising; (vi) not promote violence or hate speech, or (vii) not contain viruses, Trojan horses, worms, time bombs, cancel bots or other similar harmful or deleterious programming routines. Additionally, the Advertiser represents and warrants that the Advertiser has the right and authority to enter into this Agreement and grant to the Company the rights, permissions, privileges and licenses granted herein, without any type of reservation and/or restriction. Note that any prepaid budgets paid by the Advertiser in breach of these Terms and Conditions are non-refundable.

(b) Indemnification. The Advertiser agrees to defend indemnify and hold harmless the Company and its directors, officers, agents, employees and affiliates for any and all losses, costs, liabilities or expenses (including without limitation reasonable lawyers' and expert witnesses' fees) (including all damages awarded to Third Party Providers or other third parties payable by the Company) incurred or arising from any breach of the representations or warranties in this Section 6, any breach of any Third Party Providers' terms and conditions, any technical damage caused by the Advertisement(s) or any portion thereof as provided, any claim arising from the Advertisement(s), the Advertiser's website or the sale or license of the Advertiser's goods or services or any other act, omission or misrepresentation by the Advertiser. The Company shall control the defense and settlement, if any, of such action with counsel of its choosing at the Advertiser's full expense. The Advertiser shall fully and actively cooperate in the defense of any claim for which the Advertiser is indemnifying hereunder, at the full expense of the Advertiser.

## 7. Limitations on Liability.

(a) In the event that the Company does not deliver the advertising services stated in the Insertion Order in the time period allotted under it, the sole liability of the Company to the Advertiser shall be limited to the obligation, upon the Company's final and sole determination, to either (i) continue to deliver the Advertisement(s) until the Advertisement(s) garners the stated advertising service, (ii) credit the undelivered service to a future advertising run. In no event will the Company be liable for any special, indirect, incidental or consequential damages whether such damages are alleged in tort, contract or indemnity or for loss of profits (whether direct or indirect), interrupted communications, lost business or lost data arising out of or in connection with this Agreement, even if the Company has been advised of (or knows or should know of) the possibility of such damages. The Company makes no warranties of any kind, whether expressed or implied, including any implied warranty of merchantability.

(b) Nothing in this Agreement shall limit or exclude the Company's liability for:

- i. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- ii. fraud or fraudulent misrepresentation; or
- iii. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

(c) The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

(d) The Company's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract shall be limited to an amount equal to the fees paid or payable under this Agreement.

(e) This clause 7 shall survive termination of the Agreement.

## 8. Data protection

(a) The Company and the Advertiser acknowledge that for the purposes of the Data Protection Act 1998, the Advertiser is the Data Controller and the Company is the data processor in respect of any Personal Data.

(b) The Company shall process the Personal Data only in accordance with the Advertiser's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by the Advertiser.

(c) Each party warrants to the other that it will process the Personal Data in compliance with all applicable laws,

(d) In this clause 8, **Personal Data**, shall have the meanings given to them in the Data Protection Act 1998.

## 9. Termination

(a) Without limiting its other rights or remedies, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

- i. the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [10] days after being notified in writing to do so;
- ii. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- iii. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

(b) Without limiting its other rights or remedies, the Company may terminate the Agreement with immediate effect by giving written notice to the Advertiser if the Advertiser fails to pay any amount due under this Agreement on the due date for payment.

(c) Without limiting its other rights or remedies, the Company shall have the right to suspend provision of the services under the Agreement or any other agreement between the Advertiser and the Company if the Advertiser becomes subject to any of the events listed in clause 9(a)(ii) to clause 9(a)(iii), or the Company reasonably believes that the Advertiser is about to become subject to any of them, or if the Advertiser fails to pay any amount due under this Agreement on the due date.

(d) The Advertiser may terminate the Agreement without cause, by giving 2 week's written notice of cancellation to the Company at any time and for any reason.

(e) On termination of the Agreement:

- i. the Company shall not enter into any new contracts for the service of Advertisement(s) in respect of the Agreement and shall use its reasonable endeavours to cancel any existing contracts for the service of Advertisement(s) in respect of the Agreement;
- ii. the Company shall be entitled to invoice the Advertiser for the service of all Advertisement(s) served before the date of termination and for the service of all Advertisement(s) served after date of termination in accordance with any contracts with Third Party Providers, which the Company has not been able to cancel in accordance with clause 9(e)(i) of this Agreement, in each case at the full price as set out in the Insertion Order; and ;
- iii. to compensate the Company for the time and investment in preparing for and launching the campaign in accordance with the Insertion Order, the Company shall be entitled to invoice the Advertiser for an amount equal to 25% of the difference between the amount already invoiced (including in accordance with clause 9(e)(ii)) and the total fee set out in the Insertion Order.
- iv. the Company shall deliver to the Advertiser (or any third party specified by the Advertiser), promptly, in accordance with the Advertiser's instructions, all reports relating to the cancelled campaign.

## 10. Consequences of termination

On termination of the Agreement for any reason:

(a) the Advertiser shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and the Company shall submit invoices in accordance with clause 9(e) which shall be payable by the Advertiser immediately on receipt;

(b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry; and

(c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

#### 11. Editorial Adjacencies.

(a) The Company acknowledges that certain Advertisers or Agencies may not want their Advertisement(s) placed adjacent to content that promotes pornography, violence, or the use of firearms, contains obscene language, or falls within another category and any such requirement shall be stated on the Insertion Order ("**Editorial Adjacency Guidelines**"). The Company will use reasonable efforts to comply with any such Editorial Adjacency Guidelines with respect to Advertisement(s) that are published under the terms of this Agreement.

(b) The Company and the Advertiser agree that the Company's sole responsibilities with respect to compliance with any Editorial Adjacency Guidelines will be to use its reasonable endeavours to obtain contractual representations from its participating network publishers that such publishers will comply with Editorial Adjacency Guidelines on all network locations where the Advertisement(s) are to be published.

(c) Should Advertisement(s) appear in violation of the Editorial Adjacency Guidelines, the Advertiser's sole and exclusive remedy is to request in writing that the Company remove the Advertisement(s).

(d) After the Advertiser notifies the Company that specific Advertisement(s) are in violation of the Editorial Adjacency Guidelines, the Company will use reasonable endeavours to effect the removal of the Advertisement(s) connected with such violation within 48 hours.

#### 12. Miscellaneous.

(a) No Waiver. Neither the failure nor any delay on the part of the Company to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof.

(b) Governing Law; Venue: The laws of England and Wales shall govern all matters concerning the validity and interpretation of and performance under this Agreement and the venue for any action with respect hereto shall be the United Kingdom. Each of the parties hereto consents to the jurisdiction of the Courts located in United Kingdom and agree not to bring any action in regard of this Agreement or the transactions hereunder in any other jurisdiction.

(c) Entire Agreement. This Agreement represents the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, express or implied, oral or written, except as herein contained.

(d) No Assignment. The Advertiser may not assign or transfer this Agreement or any obligation incurred hereunder, without the prior written consent of the Company. Any attempt to do so in contravention of this clause shall be void and of no force and effect. The Company may assign this Agreement to any company that assumes all or a majority of its operating assets by merger or acquisition.

(e) Force Majeure. The Company shall not be held to be in breach of this Agreement by reason of any failure or delay in its performance hereunder if such failure is due to causes beyond its reasonable control, including but not limited to, acts of the other party, acts of God, delays in transportation, inability beyond its reasonable control to obtain necessary labour or materials, or events such as fires, floods, earthquakes, storms, war, acts of terrorism or the public enemy, civil commotions, epidemics or public health emergencies, and interruptions of essential utilities or network communications and the like or by any law, rule, regulation, order or other action by any public authority. In the event of interruption of display or distribution of the Advertisement(s), the Company's sole obligation shall be to restore service as soon as is reasonably practicable.

(f) Construction. In the event of any conflict in terms between these Terms and Conditions and the Insertion Order, these Terms and Conditions shall apply.

(g) Execution. Representations and Warranties by the Advertiser, in connection with these Terms and Conditions:

The herein Terms & Conditions are fully and irrevocably accepted and agreed by the Advertiser contemporaneously to the Advertiser or Agency's acceptance and execution of the attached Insertion Order with number and date as herein referred to. The herein Terms & Conditions constitute an integral part of the herein mentioned Insertion Order.