

PLEASE READ THIS AGREEMENT CAREFULLY; THIS IS A BINDING CONTRACT.

Welcome to the Content.ad website (the "Site"). Content.ad owns and manages an advertising service in which it displays images, texts and hyperlinks supplied by an advertiser ("you") on websites owned by you or unrelated third parties ("Advertiser's Content"). Visitors to these websites click on these hyperlinks (each, a "Click") and go to a designated page on your website(s) ("Landing Page"). Content.ad charges you for each Click generated to the Landing Page(s).

These Advertiser Terms (this "ToU") describes the terms and conditions applicable to your access and use of the Site and all use of the services and products available at or through or in connection with the Site (collectively, the "Service"). This ToU sets forth the terms and conditions under which Content.ad ("Content.ad," "we," "us," or "our") provides you access to the Site and the Service.

Content.ad may amend this ToU at any time by posting the amended Terms of Use on the Site, and you agree that you will be bound by any changes to this ToU. For your convenience, the date of last revision is included at the top of this page. Content.ad may make changes to the Site and/or the Service at any time. You understand that Content.ad may discontinue or restrict your use of the Site and/or the Service for any reason or no reason with or without notice.

Your use of the Site and/or the Service, or by clicking "I ACCEPT" if presented with this ToU in a click-through format, signifies that you agree to this ToU and constitutes your binding acceptance of this ToU, including any modifications that Content.ad makes from time to time. You acknowledge and agree that by clicking on the "I ACCEPT" button (or similar buttons or links as may be designated by Content.ad to show your acceptance of the ToU), you are entering into a legally binding contract. You hereby agree to the use of electronic communication in order to enter into agreements, to create other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the Service. If you are accepting this ToU on behalf of your employer or another entity, you represent and warrant that you have full legal authority to bind your employer or such other entity to this ToU. If you do not have such authority, then you may not use the Site and/or the Service on behalf of your employer or such other entity and you must discontinue all use of the Site and the Service immediately.

### **1. Privacy Policy**

By clicking "I ACCEPT" or using the Site or the Service, you represent that you have read and consent to our Privacy Policy in addition to this ToU. Content.ad may revise the Privacy Policy at any time, and the new versions will be available on the Site. If at any point you do not agree to any portion of the Privacy Policy, you must immediately stop using the Site and/or the Service.

### **2. Requirements**

Before you can use the Service, you must agree to this ToU and the Privacy Policy, which you will be deemed to have done by utilizing the Service. These requirements may change as the Service evolves. You are responsible for any Internet connection fees that you incur when accessing the Service.

### **3. ToU Updates**

Content.ad will revise this ToU as the Site and/or the Service evolves. By using the Site and/or the Service, you agree to the then-current version of this ToU as posted on the Site. If at any point you do not agree to any portion of the then-current

version of this ToU, you must immediately stop using the Site and the Service.

#### **4. Description of Services**

Through the Site you may select from a variety of Services offered as described below. The Services we provide pertain to articles, blog posts, user comments, messages, information, text, data, graphics, news articles, photographs, images, illustrations, software, audio clips and video clips provided by you ("Content") on the Site, displayed via the Service and accessed by users of your websites, and promoted through the Service. Content.ad reserves the right to reject any Content for any reason. Additionally, you may request that Content.ad create content for you ("Articles") to be promoted through the Service. Content.ad will not advertise on any website that contains pornographic, hate material, gambling related material or any other material deemed illegal or offensive by Content.ad or under applicable law.

#### **5. Representations and Warranties**

You represent and warrant to Content.ad that (a) you are the owner (or are otherwise the authorized licensee) of the copyright or other intellectual property rights in any Content provided to Content.ad hereunder, and have the right to deliver, and to authorize Content.ad to, display, perform, distribute and exploit such Content in the manner contemplated by this ToU without additional fee or payment whatsoever to any third party, (b) you shall not impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity; and (c) none of your Content shall violate the terms of Section 10.3.

#### **6. Submitted Content**

Content.ad does not claim ownership of any Content you make available through the Service. At Content.ad's sole discretion, such Content may be included in the Service in whole or in part or in a modified form. With respect to such Content you submit or make available for inclusion through the Service and your registered and unregistered trademarks, service marks, trade dress, graphics or logos ("Licensed Marks"), you grant Content.ad a perpetual, irrevocable, non-terminable, worldwide, royalty-free, fully paid-up and non-exclusive license to use, copy, distribute, publicly perform, display, modify, create derivative works, and sublicense such materials or any part of such materials in any of the following: (i) on the Site or any Content.ad blog, newsletter or other communication or business development, sales or press release materials, (ii) as any part of the Service; (iii) on any third-party website in connection with the Service, and (iv) in any other reasonable manner that you might expect Content.ad to use such Content and Licensed Marks. The parties acknowledge and agree that the copyright, and all other right, title and interest, in and to the Articles written by Content.ad shall remain with Content.ad and you shall have no rights therein unless Content.ad otherwise grants you rights in a separate writing; and the copyright, and all other right, title and interest, in and to your Content shall remain with you and Content.ad shall have no rights therein except as set forth in this ToU or unless you otherwise grants Content.ad rights in a separate writing. If supplied by you, you shall supply the Content to Content.ad in such formats and as otherwise consistent with Content.ad's current and prevailing specification requirements.

You hereby represent, warrant and covenant that any Content you provide does not include anything to which you do not have the full right to grant the license specified in this Section 6. If supplied by you, you shall supply Content to Content.ad in such formats and as otherwise consistent with our current and prevailing specification requirements. You agree that Content.ad may use your name, Licensed Marks and logo, or otherwise refer to you, in its marketing materials and web sites as part of a list of its customers, and in any advertisement, news release or other publication of Content.ad for the purpose of publicizing these ToU and/or Content.ad's relationship with you. Content.ad reserves the right to set your

campaign live once the funds have been added to your account and content has been approved by our team.

## **7. Accounts and Security**

7.1. **Eligibility.** You represent that you are an adult and have the legal capacity to enter into a contract in the jurisdiction where you reside.

7.2. **Account.** To access the Service, you must have an account. You can create an account by completing the registration process on the Site. By registering, you will have the ability to control certain settings for the Service. Depending upon which Services you select, you may be required to supply contact and other information.

7.3. **Account Security.** Maintaining account security is very important. You are entirely responsible for maintaining the confidentiality of your account password. You agree to notify Content.ad immediately if you believe that an account password may have been compromised.

7.4. **Account Sharing or Transfers.** You may not share or transfer any account, except that you may permit your minor child to use an account registered to you so long as you accept full responsibility for the conduct of that child. You may not disclose your password to anyone else.

7.5. **Cancellation by You.** You have the right to cancel any account registered to you at any time. You may cancel any account registered to you by sending a request to cancel your account to support@content.ad.

7.6. **Termination by Content.ad.** Content.ad reserves the right to deny service to any person and to reject any Content in Content.ad's sole and absolute discretion for any reason. The Service is offered with the understanding that Content.ad may terminate any account registered to you and/or your access to the Service at any time, for any reason or no reason, including without limitation for any violation of this ToU. Content.ad may stop offering and/or supporting the Service or any portion thereof at any time.

7.7. **Effect of Account Cancellation or Termination.** If you voluntarily terminate an account or allow that account to lapse, you may reactivate that account at any time through the account interface on the Site. Accounts terminated by Content.ad for any type of abuse, including without limitation a violation of this ToU, may not be reactivated for any reason. Upon cancellation or termination (whether by you or Content.ad), all amounts due to Content.ad hereunder from you shall become immediately due and payable.

## **8. Terms of Payment; Reporting**

8.1. **Budget.** You will designate either a daily budget or a total budget (as applicable, the "Budget") for your account. Due to the nature of Internet marketing, Content.ad has the right to deliver and you agree to pre-pay for an amount of Clicks equal to 110% of your Budget. Upon the entire depletion of your account Budget, your account will be inactive until the funds in your account are replenished.

8.2. **Extended Terms.** All Budget amounts are required to be pre-paid by credit card and/or wire transfer. If you desire to pay on extended terms and not via pre-pay, you may apply for extended terms from Content.ad by first submitting a request for extended terms to credit@content.ad. Content.ad may deny extended terms to you in its sole discretion.

8.3. Payment. Unless otherwise agreed in a separate writing signed by you and Content.ad, you agree to pre-pay for Clicks in advance of Content.ad delivering such Clicks to you. For Clicks for which you have not pre-paid, you agree to make all payments for such Clicks when due. If your account has a current or past due balance with Content.ad's accounts receivable and you are also a publisher on the Site, Content.ad reserves the right to withhold money due to you under the publisher agreement and/or to withdraw funds from your account in order to make your account current.

8.4. Invoice. Content.ad software and servers shall track all Click information and you acknowledge and agree that, subject to this Section 8.4, Content.ad's reports and statistics will be controlling for all purposes including, without limitation, calculation of pre-paid amounts allocated for Clicks delivered to you by Content.ad and, in the event the pre-paid amount does not cover the amount of Clicks delivered to you by Content.ad, payments for such Clicks and any other payments due under this Agreement. Content.ad will grant you access to an online reporting tool which allows you to review Click information. If and to the extent Content.ad makes any real-time (or near real-time) online reporting to you, such information shall at all times be subject to customary calendar month-end adjustments made by Content.ad in its sole discretion. You will pay for Clicks based on Content.ad's reporting. Content.ad will deliver an invoice to you after the close of each calendar month (the "Invoice"). The Invoice will report the number of Clicks occurring in such calendar month. You acknowledge and agree that a Click does not guarantee that a visitor will actually arrive at the requested target Landing Page and that a Click will be considered valid even if the target Landing Page is busy or not available. In the event the amount you pre-paid does not cover the amount owed for Clicks delivered to you by Content.ad, then the applicable Invoice will include your required payment for such Clicks. For any required payments to Content.ad, you shall pay Content.ad within the number of days set forth in the "Payment Terms" portion of the Invoice (or within thirty (30) days, if no number is set forth) after the end of the calendar month for which the Invoice is delivered, or as otherwise agreed to by Content.ad and you in writing. Any payment not made within thirty (30) days of the due date shall accrue interest at the rate of 1.5% per month or any fraction thereof, or if less, the highest rate permitted under law. All costs of collection, including reasonable attorney's fees, court costs and related expenses, incurred by Content.ad shall be borne by you. If you default in the payment of an Invoice or if in the judgment of Content.ad, your credit becomes impaired, Content.ad shall have the right to require payment for any future advertising to be upon such terms as Content.ad may deem appropriate.

8.5. Taxes. You shall pay all sales, use, excise and other taxes which may be levied upon either party in connection with these ToU, except for income taxes.

## **9. Proprietary Rights; Service Use Restrictions**

9.1. Proprietary Rights. As between you and Content.ad, the Service and all data and information generated thereby are and shall at all times remain the sole and exclusive property of Content.ad and are protected by applicable intellectual property laws and treaties. All data and other information related to the Site or collected by way of the Service on any website shall be the sole property of Content.ad. You acknowledge that you do not acquire any ownership rights in or to the Service or such data.

9.2. Service Use Restrictions. Notwithstanding anything to the contrary, you may not: (i) remove any proprietary notices from the Service; (ii) cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of the Service; (iii) sell, assign, rent, lease, act as a service bureau, or grant rights in the Service to any other entity without the prior written consent of Content.ad; or (iv) make any false, misleading or deceptive statement or representation regarding Content.ad and/or the Service.

9.3. Copyright. The Site the Service and the content made available through the Site and the Service are protected by

U.S. and international copyright laws. Except for your use of the content in connection with the Service to which we have the appropriate licensing rights or as authorized in this ToU, you may not use, modify, reproduce or distribute any of the content, or the design or layout of the Site the Service or individual sections of the content, design or layout of the Site without Content.ad's express prior written permission.

## 10. Restrictions and Conditions of Use

10.1. Use of Site and Service. As a condition of use, you acknowledge and agree that you may not use the Service for any purpose not reasonably intended by Content.ad. You agree not to license, create derivative works from, transfer, sell or re-sell any information, content, software or services obtained from the Site. Content.ad reserves the right to add or remove information, Content or Services from the Site at any time at its sole discretion.

10.2. No Violation of Laws. You agree that you will not, in connection with your use of the Site or the Service, violate any applicable law or regulation. Without limiting the foregoing, you agree that you will not make available through the Site and/or the Service any material or information that infringes any copyright, trademark, patent, trade secret, or other right of any party (including rights of privacy or publicity).

10.3. Misuse of the Site and/or the Service. You may not connect to or use the Site and/or the Service in any way not expressly permitted by this ToU. Without limiting the foregoing, you agree that you will not: (a) institute, assist, or become involved in any type of attack, including without limitation denial of service attacks, upon the Site and/or the Service or otherwise attempt to disrupt the Site and/or the Service or any other person's use of the Site and/or the Service; (b) attempt to gain unauthorized access to the Site, Service, accounts registered to other users, or the computer systems or networks connected to the Site and/or the Service; (c) use the Site and/or the Service for any illegal or unauthorized purpose; (d) use the Site and/or the Service to post or transmit, or cause to be posted or transmitted, any communication or solicitation designed or intended to obtain password, account, or private information from any Content.ad user; (e) use the Service to submit stories or comments linking to multi-level marketing schemes; or (f) use the Service with the intention of artificially inflating, deflating or altering the Service, including by way of creating separate user accounts for the purpose of artificially altering Content.ad's services; artificially inflating clicks on display links on your registered websites to paid third-party Content ("Promoted Content") or participating in any other organized effort that in any way artificially alters the results of the Service. Furthermore, you may not use the Site or Service to develop, generate, transmit or store information, including any Content that, or use the Service on any website, that: (i) is defamatory, harmful, abusive, obscene or hateful; (ii) in any way obstructs or otherwise interferes with the normal performance of another person's use of the Site and/or the Service; (iii) performs any unsolicited commercial communication not permitted by applicable law; (iv) constitutes harassment or a violation of privacy or threatens other people or groups of people; (v) is harmful to children in any manner; (vi) violates any applicable law, regulation or ordinance; (vii) makes any false, misleading or deceptive statement or representation regarding Content.ad and/or the Service; (viii) constitutes phishing, pharming or impersonates any other person, or steals or assumes any person's identity (whether a real identity or online nickname or alias); (ix) displays adult, obscene, pornographic, libelous, infringing, abusive, inflammatory or defamatory content; (x) participates in, or encourages participation in, illegal activities; (xi) promotes hate or discrimination; or (xii) facilitates the sale of firearms or illegal drugs. Content.ad may remove any Content from the Site and Service for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content), at any time.

10.4. No Data Mining or Harmful Code. You agree that you will not (a) obtain or attempt to obtain any information from the Service, including without limitation email information of other account holders; (b) intercept, examine or otherwise observe any proprietary communications protocol used by the Service, whether through the use of a network analyzer,

packet sniffer or other device; or (c) use any type of bot, spider, virus, clock, timer, counter, worm, software lock, drop dead device, Trojan-horse routing, trap door, time bomb or any other codes, instructions or third-party software that is designed to provide a means of surreptitious or unauthorized access to, or distort, delete, damage or disassemble, the Site or the Service.

10.5. **Prohibited Uses.** You agree not to (a) fraudulently redirect any end user, including but not limited to (i) through the use of unauthorized use of a third party's proprietary rights, copyrights, trademarks, or service marks in URLs, (ii) through the use of false or misleading URLs and/or (iii) through the use of "ghosting", "cloaking", and/or "doorway pages" methods; or (iv) engage in any other illegal or fraudulent business practices. In the event Content.ad determines that you have engaged in any of the foregoing, Content.ad may, in its sole discretion and as a non-exclusive remedy, charge you a one-time fee of \$1,000 as liquidated damages (the "Liquidated Damages Amount"), and/or suspend or terminate your account. You agree that Content.ad has the right to withdraw the funds in your account (up to the Liquidated Damages Amount) to make up for the loss suffered by Content.ad due to a breach of this Section 10.5. You acknowledge that the Liquidated Damages Amount is not a penalty for breach of this Section 10.5 and actual damages likely to result from breach of this Section 10.5 are difficult to estimate on the date of this agreement and would be difficult for Content.ad to prove. The parties estimate and intend that your payment of the Liquidated Damages Amount is within the range of compensation for any loss that would be suffered by Content.ad due to a breach of this Section 10.5 and would serve to compensate Content.ad for any breach by you of your obligations under this Section 10.5, and Content.ad does not intend for your payment of the Liquidated Damages Amount to serve as punishment for any such breach by you.

10.6. **Publicity.** You agree that Content.ad may use your name, Licensed Marks and logo, or otherwise refer to you, in its marketing materials and websites as part of a list of its customers, and in any advertisement, news release or other publication of Content.ad for the purpose of publicizing the Service and/or Content.ad's relationship with you.

## **11. Location**

The Site and the Service are operated by Content.ad in the United States. Those who choose to access the Site, and/or the Service from locations outside the United States do so on their own initiative and are responsible for compliance with applicable local laws.

## **12. Children**

The Site and the Service are not directed toward children under 13 years of age nor does Content.ad knowingly collect information from children under 13 or allow them to create an account or access account features. If you are under 13, please do not submit any personally identifiable information to Content.ad.

## **13. Disclaimer of Warranties**

You acknowledge that Content.ad has no control over, and no duty to take any action regarding: which users gain access to the Service; what effects the Service may have on you, your website or equipment; the accuracy or how you may interpret, rely, or use the Service including without limitation any loss of reputation or loss of traffic on your website or any website of any of your affiliates; or what actions you may take as a result of having been exposed to the Service. You further acknowledge and agree that Content.ad shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of, or reliance on, any Content, goods or services available on or through any third party website linked or referred to by any portion of the Service. You release Content.ad from all liability with

respect to the Service, and any Content or data provided or accessed via the Service or through the Site. The Site may contain, or direct you to websites containing, information that some people may find offensive or inappropriate. Content.ad makes no representations concerning the Content contained in or accessed via the Service or the Site, including without limitation Promoted Content, and Content.ad will not be responsible or liable for the contents, accuracy, copyright compliance, legality or decency of third party Content or services accessed via the Service or the Site or for your reliance on any of the foregoing. Content.ad does not make any representation, warranty or guarantee of the quantity or quality of traffic that you will receive under this ToU.

Additionally, Content.ad does not make any representation, warranty or guarantee of the quantity or quality of Clicks that you will receive under this Agreement. Content.ad will make commercially reasonable efforts to ensure that it does not charge for any fraudulent Clicks. Content.ad does not, however, represent or warranty that there will no fraudulent Clicks.

THE SITE AND SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND THOSE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. CONTENT.AD MAKES NO WARRANTY AS TO THE ACCURACY, COMPLETENESS OR RELIABILITY OF ANY CONTENT AVAILABLE THROUGH, OR THE PERFORMANCE OF, THE SITE OR THE SERVICE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CONTENT.AD SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING (I) THE NUMBER OF PERSONS WHO WILL VIEW CONTENT, AND (II) ANY BENEFIT YOU MIGHT OBTAIN FROM DISPLAY OF CONTENT BY CONTENT.AD. YOU ARE RESPONSIBLE FOR VERIFYING ANY INFORMATION BEFORE RELYING ON IT. USE OF THE SITE AND/OR THE SERVICE IS AT YOUR SOLE RISK. CONTENT.AD DOES NOT WARRANT THAT YOU WILL BE ABLE TO ACCESS OR USE THE SITE AND/OR THE SERVICE AT THE TIMES OR LOCATIONS OF YOUR CHOOSING; THAT THE SITE OR THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE; THAT DEFECTS WILL BE CORRECTED; OR THAT THE SITE OR THE SERVICE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

ADDITIONALLY, CONTENT.AD MAKES NO REPRESENTATIONS, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING CONTENT.AD'S SERVICES OR ANY PORTION THEREOF, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CONTENT.AD SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING (I) THE NUMBER OF PERSONS WHO WILL VIEW THE CONTENT OR THE ARTICLES AND (II) ANY BENEFIT CLIENT MIGHT OBTAIN FROM DISPLAY OF THE CONTENT OR THE ARTICLES BY CONTENT.AD.

Because some states or jurisdictions do not allow the disclaimer of implied warranties, the foregoing disclaimer may not apply to you.

#### **14. Limitation of Liability; SOLE AND EXCLUSIVE REMEDY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, CONTENT.AD, ITS AFFILIATES, LICENSORS AND BUSINESS PARTNERS (COLLECTIVELY, THE "RELATED PARTIES") DISCLAIM ALL LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND FURTHER DISCLAIMS ALL LOSSES, INCLUDING WITHOUT LIMITATION DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH ACCESS TO OR USE OF THE SITE AND/OR THE SERVICE, EVEN IF CONTENT.AD AND/OR RELATED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, IN NO CASE SHALL THE LIABILITY OF CONTENT.AD OR ANY OF THE RELATED PARTIES EXCEED \$100.

Because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, the liability of Content.ad and its affiliates shall be limited to the fullest extent permitted by law.

#### **15. Indemnification**

You agree to indemnify, defend and hold Content.ad and the Related Parties harmless from any and all claims, demands, damages or other losses, including reasonable attorneys' fees, resulting from or arising out of your use of the Site and/or the Service or any breach by you of this ToU or any other policies that Content.ad may issue for the Site and/or the Service from time to time.

#### **16. Governing Law; Jurisdiction**

This ToU shall be governed by and interpreted in accordance with the laws of the State of California, without regard to conflict of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Except as provided in Section 17 below (and claims proceeding in any small claims court), all disputes arising out of or related to your use of the Site and/or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located within Los Angeles, California and you agree to submit to the personal jurisdiction and venue of such courts.

#### **17. Binding Arbitration**

17.1. Arbitration Procedures. You and Content.ad agree that, except as provided in Section 17.4 below, all disputes, controversies and claims related to this ToU (each a "Claim"), shall be finally and exclusively resolved by binding arbitration, which may be initiated by either party by sending a written notice requesting arbitration to the other party. Any election to arbitrate by one party shall be final and binding on the other. The arbitration will be conducted under the Streamlined Arbitration Rules and Procedures of JAMS that are in effect at the time the arbitration is initiated (the "JAMS Rules") and under the terms set forth in this ToU. In the event of a conflict between the terms set forth in this Section 17 and the JAMS Rules, the terms in this Section 17 will control and prevail.

Except as otherwise set forth in Section 17.4, you may seek any remedies available to you under federal, state or local laws in an arbitration action. As part of the arbitration, both you and we will have the opportunity for discovery of non-privileged information that is relevant to the Claim. The arbitrator will provide a written statement of the arbitrator's decision regarding the Claim, the award given and the arbitrator's findings and conclusions on which the arbitrator's decision is based. The determination of whether a Claim is subject to arbitration shall be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator. Except as otherwise provided in this ToU, (i) you and Content.ad may litigate in court to compel arbitration, stay proceedings pending arbitration, or confirm, modify, vacate or enter judgment on the award entered by the arbitrator; and (ii) the arbitrator's decision shall be final, binding on all parties and enforceable in any court that has jurisdiction, provided that any award may be challenged if the arbitrator fails to follow applicable law.

BY AGREEING TO THIS ARBITRATION PROVISION, YOU UNDERSTAND THAT YOU AND CONTENT.AD WAIVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL.

17.2. Location. The arbitration will take place in Los Angeles, California, unless the parties agree to video, phone and/or



internet connection appearances.

17.3. Limitations. You and Content.ad agree that any arbitration shall be limited to the Claim between Content.ad and you individually. YOU AND CONTENT.AD AGREE THAT (A) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE ARBITRATED ON A CLASS-ACTION BASIS OR TO UTILIZE CLASS ACTION PROCEDURES; (B) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY OR AS A PRIVATE ATTORNEY GENERAL; AND (C) NO ARBITRATION SHALL BE JOINED WITH ANY OTHER ARBITRATION.

17.4. Exceptions to Arbitration. You and Content.ad agree that the following Claims are not subject to the above provisions concerning negotiations and binding arbitration: (i) any Claim seeking to enforce or protect, or concerning the validity of, any of your or Content.ad's intellectual property rights; (ii) any Claim related to, or arising from, allegations of theft, piracy or invasion of privacy; and (iii) any claim for equitable relief. In addition to the foregoing, either party may assert an individual action in small claims court for Claims that are within the scope of such court's jurisdiction in lieu of arbitration.

17.5. Arbitration Fees. If you initiate arbitration for a Claim, you will need to pay the JAMS arbitration initiation fee. If we are initiating arbitration for a Claim, we will pay all costs charged by JAMS for initiating the arbitration. All other fees and costs of the arbitration will be charged pursuant to the JAMS Rules.

17.6. Severability. You and Content.ad agree that if any portion this Section 17 is found illegal or unenforceable (except any portion of Section 17.4), that portion shall be severed and the remainder of the Section shall be given full force and effect. If Section 17.4 is found to be illegal or unenforceable then neither you nor Content.ad will elect to arbitrate any Claim falling within that portion of Section 17.4 found to be illegal or unenforceable and such Claim shall be exclusively decided by a court of competent jurisdiction within the County of Los Angeles, State of California, United States of America, and you and Content.ad agree to submit to the personal jurisdiction of that court.

## 18. Confidential Information

"Confidential Information" shall mean any and all oral or written information that is identified as confidential and is provided by one party to the other. Neither you nor Content.ad shall disclose or use the other party's Confidential Information for any purpose other than the purposes contemplated by this ToU, unless such disclosure or use is allowed by written permission of the other party. Notwithstanding any other provisions hereof, either party may disclose the other party's Confidential Information to the extent required by applicable law, but only after five (5) days prior written notification to the other party of such required disclosure. Upon termination, cancellation or expiration of this ToU for any reason, or upon request by either party, all Confidential Information of the requesting party, together with any copies thereof, shall be returned to that party or certified destroyed. Your Confidential Information shall remain the property of you, and Content.ad's Confidential Information shall remain the property of Content.ad.

## 19. General

19.1. ToU Revisions. This ToU may only be revised in a writing signed by Content.ad, or published by Content.ad on the Site.

19.2. No Partnership. You agree that no joint venture, partnership, employment, or agency relationship exists between you and Content.ad as a result of this ToU or your use of the Service.

19.3. Assignment. Content.ad may assign this ToU, in whole or in part, to any person or entity at any time with or without your consent. You may not assign the ToU without Content.ad's prior written consent, and any unauthorized assignment by you shall be null and void.

19.4. Severability. If any part of this ToU is determined to be invalid or unenforceable, then that portion shall be severed, and the remainder of the ToU shall be given full force and effect.

19.5. Attorneys' Fees. In the event any litigation or arbitration is brought by either party in connection with this ToU, the prevailing party shall be entitled to recover from the other party all the reasonable costs, attorneys' fees and other expenses incurred by such prevailing party in the litigation.

19.6. No Waiver. Our failure to enforce any provision of this ToU shall in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of any party to enforce each and every such provision thereafter. The express waiver by us of any provision, condition or requirement of this ToU shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

19.7. Notices. All notices given by you or required under this ToU shall be in writing and addressed to: Content.ad, 400 Exchange Suite 250, Irvine, CA 92602.

19.8. Export Administration. You will comply fully with all relevant export laws and regulations of the United States, including, without limitation, the U.S. Export Administration Regulations.

19.9. Equitable Remedies. You hereby agree that Content.ad would be irreparably damaged if the terms of this ToU were not specifically enforced, and therefore you agree that we shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this ToU, in addition to such other remedies as we may otherwise have available to us under applicable laws.

19.10. Entire Agreement. This ToU, including the documents expressly incorporated by reference, constitutes the entire agreement between you and us with respect to the Site and/or the Service and supersedes all prior or contemporaneous communications, whether electronic, oral or written, between you and us with respect to the Site and/or the Service.

**Advertiser:** \_\_\_\_\_ **Effective Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_