



Terms and Conditions

ADMATIC Pty Ltd ("ADMATIC") shall perform services for Advertiser or, if applicable, Agency on behalf of Advertiser, (collectively "Customer") pursuant to one or more Media Booking Authorities (in both the singular and plural "I/O") incorporating these Standard Terms and Conditions ("T&C's"). Capitalized terms not defined herein shall have the same meaning given to such terms in the I/O.

1. ADMATIC SERVICES

This agreement, in conjunction with the corresponding Media Booking Authority, shall constitute Advertiser's, its clients' and agents' (herein collectively referred to as "Advertiser") understanding that ADMATIC's sole obligation is to promote the Advertiser's product or services by showing banners ("Creative") provided by the Advertiser on site(s) across the ADMATIC Network (the "Agreement"). The submission of a signed Media Booking Authority by Advertiser to ADMATIC is construed as an acceptance of all the rates, terms and conditions under which advertising is sold at that time. All modifications to this Media Booking Authority are invalid unless acknowledged and accepted in writing by both ADMATIC and the Advertiser. Advertiser agrees that ADMATIC may, but is not obligated to, display Creative across the entire ADMATIC advertising network or on specific site(s) and that daily Campaign activity begins at 12:01 AM Eastern Standard Time. ADMATIC may, at its option, modify the flight date of a Campaign(s) if the creative or linking URLs are not delivered on time, there are delays due to 3rd party ad-serving, inventory fluctuation or other issues. All rates quoted herein, orally, or through written communications are only valid fourteen (14) days from date of such statement. If no agreement is reached within this time frame ADMATIC reserves the right to change rates.

2. DELIVERY MEASUREMENT STANDARDS

- a. ADMATIC will use commercially reasonable efforts to deliver the impressions stated in the Media Booking Authority in accordance with this Agreement and will use commercially reasonable efforts to deliver the impressions starting with the start date and ending with the end date set forth in this Media Booking Authority and will make commercially reasonable efforts to spread such impressions evenly throughout the term of the Agreement unless otherwise instructed by Advertiser.

- b. Unless otherwise agreed upon in writing, all invoices created by ADMATIC for work performed and delivered shall be in accordance with measurement and tracking performed by ADMATIC. ADMATIC has adopted the IAB's (Internet Advertising Bureau, <http://www.iabaustralia.co.au>) methodology for measuring impressions. Using this methodology, impression delivery guarantees will be considered "met" when the impressions reported by ADMATIC meet an Advertiser's or representative agency's insertion order.
- c. In the event that ADMATIC has agreed to use Advertiser's third-party measurements for billing purposes, Advertiser expressly acknowledges that ADMATIC may use and consider Advertiser's third-party measurements via their online reporting systems, or email confirmations from Advertiser's representatives as a valid, accurate, and a final measurement of their campaign. Advertiser agrees that it will not dispute their third-party login data or data transmitted via email to ADMATIC.

3. PAYMENT, CREDIT, AND CANCELLATION TERMS

- a. All invoices created by ADMATIC for work performed and delivered to the Advertiser shall be based on ADMATIC's measurements and shall be in accordance with measurement and tracking described in the "Delivery Measurement Standards" section. In addition, all payments will be based upon ADMATIC's measurements and not based upon Advertiser, its clients, its agents or any third party's measurements.
- b. All payments will be made in advance unless agreed upon otherwise or credit is approved and ADMATIC is under no obligation to perform agreed upon services until payment is received. Upon approved credit, terms are Net 30 from date of invoice.
- c. It is the Advertiser's responsibility to validate all impressions, and/or clicks. The Advertiser must report any discrepancies related to their campaign to ADMATIC within fifteen (15) days of the occurrence. ADMATIC is not liable for any discrepancies not reported within this time frame and Advertiser waives all right, title, and intent to dispute payment to ADMATIC based upon any discrepancy not reported within this time frame. All discrepancies must be reported to ADMATIC at accounts.au@ADMATIC.com.
- d. Either party may cancel this Agreement upon providing two (2) weeks written notice via email or Australian Mail. If Advertiser terminates campaign early, payment in full for work performed and delivered up to the modified cancellation date will be owed and due and payable in full.

- e. If Advertiser fails to pay overdue invoices for previous campaigns, ADMATIC reserves the right to immediately terminate any active campaigns.
- f. In the event Advertiser pays with credit card, Advertiser expressly agrees not to charge back on credit card account. Advertiser agrees to follow dispute resolution agreement as specified in section 10 and 3 herein.
- g. All payments must be made in Australian funds, unless otherwise agreed upfront. Advertiser understands and agrees that in no event, and under no circumstance will data provided by any ADMATIC representative constitute final billing numbers. Only Invoices emailed directly to Advertisers and Agencies are to be construed as representative of billable amounts.
- h. Advertiser agrees that all cancellation notices must be submitted via e- mail and must include a CC: to accounts.au@ADMATIC.com. All requests must be copied to this e-mail address to be considered valid. Furthermore, cancellation requests not copied to this address will not be considered valid and the Advertiser will be liable for all payments due.
- i. In the event that ADMATIC has agreed to use Advertiser's third-party measurements for billing purposes, Advertiser expressly acknowledges that ADMATIC may use and consider Advertiser's third- party measurements via their online reporting systems, or email confirmations from Advertiser's representatives as a valid, accurate, and a final measurement of their campaign. Advertiser agrees that it will not dispute their third-party login data or data transmitted via email to ADMATIC.
- j. ADMATIC agrees to stop the Advertisers campaign temporarily ("Pause") with a written request from the Advertiser. If Advertiser wishes to terminate the campaign early, Advertiser agrees to abide by the cancellation procedures set forth within these Terms and Conditions. Any cancellation notice will be based on the date the written notice was received by ADMATIC. ADMATIC will not accept the Pause period as a part of cancellation. If Advertiser cancels campaign during Pause period Advertiser agrees to pay for any leads, impressions, or clicks, delivered during the remaining cancellation notice period, based on daily averages prior to Pause.

4. ANNUAL ADJUSTMENT OF SERVICE FEES BASED ON CPI

- a. The fees for services provided under this Agreement shall be subject to an annual calendar year adjustment for all Media Booking Authorities unless otherwise agreed under a signed Media Services Agreement.
- b. The annual adjustment shall be equivalent to the percentage change in the Consumer Price Index (CPI) as published by the

Australian Bureau of Statistics (ABS) or its successor, for the preceding 12 months as of the 1st of December, applied from the following January 1st.

- c. The percentage change in the CPI shall be calculated based on the most recent twelve (12) month period for which data is available prior to the date of adjustment.
- d. For the purposes of this clause, "Consumer Price Index" refers to the CPI for All Groups, for the Australian nation, unless otherwise agreed by the parties.
- e. If there is a dispute about the calculation of the CPI adjustment, the parties agree to refer the matter to an independent accountant for determination. The decision of the accountant shall be final and binding on both parties.

5. CREATIVE STANDARDS

- a. All advertisements are subject to ADMATIC's approval. ADMATIC reserves the right to reject, discontinue, or omit any Creative or any part thereof. This right shall not be deemed to have been waived by acceptance or actual use of any Creative. ADMATIC may reject any Creative that ADMATIC feels is not in keeping with reasonable standards outlined herein. ADMATIC is not liable for errors in Creative position and/or placement, or typographic errors of any kind.
- b. If Advertiser intends to provide ADMATIC with Creative via 3rd party tags, Advertiser agrees to provide ADMATIC with a sample of each and all advertisements contained within the 3rd party tags. Failure to do so will be deemed a breach of this Agreement. In the event ADMATIC's relationship with its publishers is damaged or lost because of a breach of this condition, ADMATIC reserves the right to recover all monetary damages.
- c. Advertiser agrees to login to their ADMATIC account and confirm correct function of all creative supplied to ADMATIC within twenty-four (24) hours of campaign start. If no confirmation is received within this time frame, ADMATIC will assume that creative is functioning properly, and Advertiser agrees to pay for all impressions and clicks derived from the creative as measured by ADMATIC. All problems related to creative should be immediately brought to the attention of Advertiser's ADMATIC account executive.
- d. Advertiser agrees and understands that if ADMATIC is requested to retrieve creative for and on behalf of Advertiser that ADMATIC performs this service solely as a courtesy to Advertiser, and as such ADMATIC will not be liable for any errors, including but not limited to retrieving incorrect creative. Furthermore, Advertiser agrees to pay for all campaigns delivered for and on behalf of Advertiser, as

- e. defined in the insertion order, where ADMATIC was requested to obtain creative from a location provided by the Advertiser.

6. LIMITATION OF LIABILITIES

ADMATIC shall not have any liability to the advertiser for lost profits or other consequential, special, indirect, or incidental damages, based upon a claim of any type or nature (including, but not limited to, contract, tort, including negligence, warranty, or strict liability), even if advised of the possibility of such damages. In any event ADMATIC shall not have any liability to the advertiser for lost profits or other consequential, special, indirect, or incidental damages, based upon a claim of any type or nature (including, but not limited to, contract, tort, including negligence, warranty, or strict liability), even if advised of the possibility of such damages. In any event ADMATIC's total obligations and/or liability can never exceed the charge for the advertisement in question. Except as expressly set forth herein, ADMATIC makes no other warranties to advertiser and disclaims all warranties of merchantability or fitness for a particular purpose's total obligations and/or liability can never exceed the charge for the advertisement in question except as expressly set forth herein, ADMATIC makes no other warranties to advertiser and disclaims all warranties of merchantability or fitness for a particular purpose.

7. INDEMNIFICATION

- a. All Creative has been accepted and published upon the representation that the Advertiser is authorized to publish the entire contents and subject matter thereof. Advertiser agrees to indemnify and hold ADMATIC, its Publishers or List Providers and their respective affiliates, employees, officers, agents, directors and representatives ("ADMATIC Indemnified Parties" or "NIP"), harmless from all allegations, claims, actions, causes of action, lawsuits, damages, liabilities, obligations, costs and expenses (including without limitation reasonable attorneys' fees, costs related to in-house counsel time, court costs and witness fees) (collectively "Losses") indemnify, defend, and save ADMATIC harmless from any and all liability for any claim or suits for libel, defamation, violation of rights of privacy, plagiarism, attorney's fees, trademarks, copyright infringement, unauthorized content (including text, illustrations, representatives, sketches, maps, labels, or other copyrighted matter) contained in Creative or the unauthorized use of any person's name or photograph, arising from ADMATIC reproduction and publishing of such Creative pursuant to Advertiser's submission.

- b. Advertiser understands that ADMATIC in due diligence cannot monitor all ADMATIC Partner sites for appropriate content and ADMATIC may not be held responsible for the content of any Partner site. If Advertiser reasonably determines that the placement of any advertisement by ADMATIC hereunder harms the goodwill or reputation of Advertiser or disparages or brings Advertiser into disrepute, including, but not limited to association with web sites that contain indecent, illegal, misleading, harmful, abusive, harassing, libellous, defamatory, or other offensive materials, then ADMATIC shall use commercially reasonable efforts to remove such advertisement promptly following Advertiser's notice thereof to ADMATIC; provided, however, that if ADMATIC reasonably believes that removal of an advertisement from a site will have a material impact on ADMATIC's ability to deliver advertisements in accordance with the Media Booking Authority, ADMATIC may condition such compliance on Advertiser providing an extension of the flight dates.
- c. Advertiser guarantees that data regarding consumers gained by this campaign will be only used for legal purposes and Advertiser will indemnify, defend and hold harmless the ADMATIC Indemnified Parties from any and all losses, liabilities, claims, obligations, costs, expenses (including without limitation reasonable attorney's fees) Losses which result from any claim of damages brought or sought against ADMATIC NIP that alleges consumer data gained by this campaign was used for any purpose in violation of any applicable laws. The indemnity obligations of this paragraph are contingent on NIP ADMATIC giving prompt written notice of any such claim. NIP ADMATIC will have sole control over the litigation or settlement of such claim. The provisions of this Paragraph shall survive the termination of this Agreement.

8. FORCE MAJEURE

ADMATIC is not liable for delays in delivery and/or non-delivery in the event of an act of God, actions by any governmental or quasigovernmental entity, Internet failure, equipment failure, power outage, fire, earthquake, flood, insurrection, riot, act of terrorism, act of war, explosion, embargo, strike (whether legal or illegal), labor or material shortage, transportation interruption of any kind, work slow-down, or any condition beyond ADMATIC's control affecting production or delivery in any manner.

9. CONFIDENTIALITY

- a. Parties have disclosed or may disclose to each other information relating to each party's business (including, without limitation, data

and other information pertaining to publisher sites, affiliates and vendors that are or have been part of the ADMATIC Network), all of which to the extent previously, presently, or subsequently disclosed to each other is "Proprietary Information." Proprietary Information does not include information that each party can document,

1. is or becomes (through no improper action or inaction of each party or its Representatives (as defined below)) generally known by the public,
 2. was in its possession or known by it without restriction prior to receipt from the other party or
 3. becomes available to a party from a source other than the other party or its Representatives having no obligation of confidentiality. ("Representatives," when used with respect to either party, means that party's affiliates, agents, officers, directors, consultants, and employees).
- b. Parties agree,
1. to hold Proprietary Information in strict confidence and to take all reasonable precautions to protect such Proprietary Information (including, without limitation, all precautions each party employs with respect to its most confidential materials),
 2. not to make any use whatsoever at any time of such Proprietary Information, except for the purpose of evaluating the results of Advertiser's advertising campaign,
 3. not to copy any Proprietary Information for any purpose whatsoever without written permission from each party, and
 4. not to divulge any Proprietary Information or any information derived therefrom to any third party or employee, except those of each party's employees who have a legitimate "need to know" and are bound in writing to the restrictions herein.
- c. Each party will be responsible for a breach of this Agreement by any of its Representatives. Each party shall promptly notify the other party upon discovery of any unauthorized use or disclosure of Proprietary Information and will cooperate with the other party in every reasonable way to help regain possession of such Proprietary Information and prevent its future unauthorized use.

10. PROPRIETARY RELATIONSHIPS

ADMATIC has proprietary relationships with the publishers that make up the Network. Except for reasonably documented, pre-existing relationships with direct publishers or networks or relationships entered into in the ordinary course of Advertiser's business, Advertiser agrees not to solicit, induce, recruit or encourage, directly or indirectly, any publisher that the Advertiser knows, or has reason to know, is a publisher on the

Network for the purpose of offering to such publisher products or services that compete with those of ADMATIC, including, without limitation, the placement or hosting of advertising in any form without the express, written consent of ADMATIC. Advertiser understands that in the event of a breach of the forgoing representations by Advertiser, ADMATIC shall be entitled to injunctive or other equitable relief as a remedy therefore, without the necessity of posting a bond with respect thereto. Any such relief awarded shall be in addition to any appropriate relief which may be awarded in the form of monetary damages, and ADMATIC shall be entitled to monetary damages to the fullest permitted under applicable law. The foregoing remedy is a material, bargained for basis of this agreement and has been considered in each party's decision to enter into this Agreement.

11. CHOICE OF LAW AND VENUE

It is agreed that any dispute or controversy arising out of or relating to any interpretation, construction, performance, or breach of this Agreement, shall be exclusively governed by Australian law without respect to conflict of law provisions. The parties further agree to submit to personal jurisdiction in the courts of NSW (Australia) as such courts shall serve as the exclusive venue for all dispute resolution. The prevailing party of any litigated dispute arising out of or relating in any way to this Agreement shall receive its reasonable attorneys' fees, together with its costs and expenses incurred resolving the dispute as part of the judgment.

12. ENTIRE AGREEMENT

- a. This Agreement, together with the Media Booking Authority(s) incorporated by reference, embodies our entire agreement, supersedes all prior oral and written agreements, and may not be amended or modified except by a writing acknowledged and accepted by both parties. This Agreement may be executed in any number of counterparts and facsimile copies, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument. If any of the provisions included herein are held to be unenforceable, the remaining portions of the Agreement will remain in full force and effect. Any notice or report required or permitted by this Agreement shall be made by personal delivery or fax to then operating fax number or business address.
- b. Failure of either party to require strict performance by the other party of any provision shall not affect the first party's right to require strict performance thereafter. Waiver by either party of a breach of any provision shall not waive either the provision itself or any subsequent breach.

13. SURVIVABILITY

Paragraphs 6, 7, 8 and 11 shall survive in perpetuity after the termination of this agreement by either party; Paragraph 8 shall survive for six (6) months from such termination.

14. AUTHORISATION

Advertiser hereby authorises ADMATIC to promote and distribute Advertiser's campaign via any electronic media (including website placement, search listing, etc.) as ADMATIC in its discretion deems appropriate to meet Advertiser's performance objectives. Advertiser agrees to allow and/or assist ADMATIC to alter, resize, or otherwise modify creative only as necessary for distribution through the various channels listed above.

