

# PUBLISHER TERMS AND CONDITIONS

## 1. DEFINITIONS.

For the purposes of this Agreement, the parties agree that, when used capitalized herein, the following terms shall have the following meanings unless they are otherwise defined in this Agreement:

“Advertiser(s)” means one or more customers of Adplex Media which create the Advertising Material, and authorize Adplex Media as its intermediary to include it on the Publisher’s Website(s).

“Advertising Material” means the text, graphics, logos, designs, trademarks and copyrights for any type of advertising including, but not limited to banners, text ads, pop-ups and pop-unders created by an advertiser.

“Publisher(s)” means one or more customers of Adplex Media responsible for the distribution of online Advertising Material on its Website(s).

“Publisher’s Website(s)” means the space, including without limitation, homepage, website or e-mail, where the Publisher(s) incorporate or embed the Advertising Material.

“Adplex Media Network” means the advertising network owned and operated by Adplex Media Ad Network.

“Ad Serving Platform” describes the technology and service that places advertisements on Websites.

“Impressions” means the number of times Advertising Material is served to a person visiting the Publisher’s Website(s).

“Publisher Earnings” means the total revenue generated by the Publisher using the Advertising Materials less Adplex Media margin. Publisher earnings are based on the eCPM generated by the ad spot. Adplex Media margin remains at the sole and absolute discretion of Adplex Media.

“eCPM” means effective cost per mile. eCPM is used on the Adplex Media Network to calculate the relative cost of an advertising campaign and estimates the cost / revenue per 1000 views of the ad.

“Publisher Earnings” means the total revenue generated by the Publisher using the Advertising Materials less Adplex Media margin. Publisher earnings are based on the eCPM generated by the ad spot. Adplex Media margin remains at the sole and absolute discretion of Adplex Media.

“Unique Click” means the number of times, as recorded by Adplex Media ad serving platform a user visiting Publisher’s Website(s), as identified by IP address, clicks on Advertising Material. A click on Advertising Material by a particular visitor shall only be counted as a Unique Click once every 24-hour period.

“Administration Panel” means the interface provided by Adplex Media to clients (Publishers, Advertisers and Third Parties) in order to buy and sell traffic on the Adplex Media Network.

“Insertion Order” is a written authorization to display advertisement on Publisher’s Website(s).



## 2. OBJECT.

By virtue of Publisher joining the Adplex Media Network and running Adplex Media Advertising Material, the Publisher must comply to all the terms and conditions set forth in this agreement. All Publishers agree to these terms and conditions and are legally bound to this agreement.

## 3. PUBLISHER ELIGIBLE WEBSITE(S).

3.1. Adplex Media reserves the right to approve or to deny the affiliation of a Publisher at any time. If not approved, Publisher shall not be entitled to the payment of the revenue displayed in its Administration Panel. The following are examples of Publisher's Website(s) that are not eligible for participation on the Adplex Media Network:

- Websites that are under construction or incomplete.
- Websites with extremely limited audiences or viewership (less than 100 unique visitors per day).
- Websites that contain any content violating privacy laws.
- Websites which contain material that infringes the rights of others (including but not limited to copyright and other intellectual property rights) or which promotes copyright piracy.
- Websites with reference to illicit practices or shock human dignity: Contained with pornographic character staging minors(minors); Contents making the apology of voluntary crimes to life, persons the integrity and sexual aggressions; Contents making the apology of the war crimes, crimes against humanity; Contents provoking discrimination, hate or violence towards a person or towards a group of persons at the rate of their origin or of the group they belong to (an ethnic group, a nation, a race or a religion). Any description will be automatically recorded and indicated to proper authorities.
- Websites that participate in or transmit inappropriate newsgroup postings or unsolicited e-mail (spam).
- Websites promoting any type of illegal substance or activity.
- Websites with illegal, false or deceptive investment advice.

3.2. Adplex Media regularly checks Publishers Website(s). If Adplex Media determines that Publisher's Website(s) includes any forbidden content, Adplex Media may close Publisher's account without prior notification. In such a case, Publisher shall not be entitled to the payment of the revenue remaining in its Administration Panel.

## 4. MISUSE.

4.1. Any form of misuse, i.e. procuring business transactions by unfair methods or inadmissible means that violate applicable law or this Agreement, is prohibited.

4.2. In particular, Publishers are prohibited from attempting to obtain commissions by procuring business transactions themselves or through a third person using the Advertising Material, tracking links and/or other technical aids provided to them in the context of the Adplex Media Network using one or several of the following methods:

4.2.1. Fraudulently pretending or faking business transactions, for example by entering third party data without authorization or by providing false or non-existing data when ordering goods or registering online;



4.2.2. Using Advertising Material that enables tracking although it is not displayed at all, not visibly or not in the manner and/or size stipulated by the Advertiser; or

4.2.3. Brand-Bidding.

4.3. Any form of misuse will lead to the blocking of the Publishers' accounts immediately. In this case Publishers may raise an objection (i.e. via letter, fax, e-mail) within a month in order to provide a statement and evidence that the chosen form of advertising has been in accordance with this Agreement. If the Publisher cannot confute the breach of this Agreement, Adplex Media will issue a notice of termination. In the event of termination, the Agreement will be wound up and liquidated pursuant to the stipulations of Clause 12 of this Agreement. The Publisher shall not be entitled to any remuneration.

4.4. Fraudulent Impressions. Any method to artificially and/or fraudulently inflates the volume of impressions or clicks is strictly forbidden. Counts of impressions or clicks will be decided solely on the basis of reports generated by Adplex Media Advertising Network. These prohibited methods include but are not limited to: Bots and Malware, domain masking, click fraud, conversion fraud, running Adplex Media's Advertising Material / Javascript tag in hidden iframes, framing an ad-banner's click-through destination, auto-spawning of browsers, running 'spiders' against the Publisher's own Website, automatic redirecting of users or any other technique of generating automatic or fraudulent (as determined by Adplex Media, acting reasonably, or based on industry practices) click-through and/or impressions. Advertising Material may not be placed on a page which reloads automatically. Publisher may not require users to click on Advertising Material prior to entering a Website or any area therein or provide incentives of any nature to encourage or require users to click on Advertising Material. Publisher's clicks-throughs of any link other than Adplex Media's Advertising Material, or use of any other means of artificially enhancing click results shall be a material breach of this Agreement, and upon such occurrence, Adplex Media may terminate this Agreement without prior notification. Such termination is at the sole discretion of Adplex Media and is not in lieu of any other remedy available at law or equity. Adplex Media's ad server will be the official counter for determining the number of Advertising Material delivered under and amounts payable under this Agreement.

For each case of intentional or negligent violation of the present provisions, the Publisher hereby undertakes to pay Adplex Media liquidated damages in each case in an amount to be determined at

Adplex Media's equitably exercised discretion and, in the event of dispute, in an amount to be reviewed by court. Each instance of violation shall be subject to liquidated damages in the maximum amount of the current balance of the Publisher Account.

## **5. PUBLISHER PAYMENT.**

5.1 Payments. Publisher payments are done once a month on the 5th of each month unless these dates are public holidays or weekends. Payments are made with Net 30 condition. Fees may apply for certain pay systems. Payments are generated automatically by the Adplex Media platform. To receive a payment, Publishers must reach the minimum payout limit set up in the Adplex Media Administration Panel. Adplex Media shall pay Publisher for Advertising Material actually delivered by Publisher to each of Publisher's Website(s) approved by Adplex Media.

5.2 Liability for Publisher's Revenue. Publisher understands and agrees that Adplex Media acts solely as a third party for the Advertisers; and that Adplex Media shall only be liable to Publisher for Publishers Revenue based on payments from Advertisers that it has received without restrictions that constitute



immediately-available funds to Adplex Media. Publisher agrees that (i) Adplex Media shall have no liability or obligation to Publisher for payments due but unpaid from Advertisers; (ii) Publisher will only assert any claims therefore directly against the Advertisers; and (iii) Publisher shall hold Adplex Media harmless and indemnify it from any claims or liability related to such unpaid amounts. Adplex Media agrees to make every reasonable effort to bill, collect and clear payment from the Advertisers on a timely basis. Adplex Media, reserves the absolute right not to make any payments if the Publisher violates any of the terms and conditions set forth herein.

5.3 Other Expenses. Adplex Media assumes no responsibility for paying any income taxes, banking commissions or currency fees on behalf of Publisher. By participating in the Adplex Media Network, Publisher assumes complete and sole responsibility for any taxes, banking commissions or currency fees owed as a consequence thereof.

5.4 Third Parties. Adplex Media may hire other companies to perform certain business related functions such as processing Publisher payments on it's behalf. Adplex Media's payment processing partner may request that Publisher provide certain personal data (e.g., a valid government issued ID, Publisher's legal name, address, and data of birth) for the purpose of complying with any federal and state laws and regulations. Third Party may also communicate directly with the Publisher regarding any issues with a payment. Any information provided to the third party will be confidential and only be used for intended purposes.

## **6. ADVERTISING MATERIAL.**

6.1. Adplex Media Javascript tag. Publisher(s) shall place the Adplex Media Javascript tag on all appropriate pages within its website(s). Publisher(s) shall not alter, sell or disclose the Adplex Media Javascript tag in any way without Adplex Media prior written consent. The Adplex Media Javascript tag for Advertising Material may not be used on a web page other than one located at an approved Website and may not be distributed or submitted to any newsgroup, e-mail distribution list, chat room, guest books, or other location that hasn't been approved by Adplex Media.

6.2. Recording of Service Counts. Adplex Media has the sole responsibility for calculation of statistics, including Impressions, click-through rate, revenues, eCPM. GMT Time shall be the time period for traffic and tracking purposes. Statistics shall be available to Publisher online in the Adplex Media Administration Panel. Publisher understands that Adplex Media's online statistics may not be 100% accurate and that Adplex Media may make adjustments to Publisher's online statistics. In the event that coding on Publisher's Website(s) generates substantial number of erroneous impression due to a technical problem such as server malfunction, coding alteration or a mistake in entering code, Adplex Media reserves the right to withhold payment on all Impressions and clicks delivered by Publisher.

6.3. Volume of impressions. Adplex Media cannot guarantee any volume of traffic. Impressions can differ from one day to another following the performances of the site targeted.

## **7. PUBLICITY.**

Adplex Media shall use the trade names or trademarks of Publishers, Advertisers or third parties without prior written approval from the party owning such name or mark.

## **8. REPRESENTATIONS AND WARRANTIES.**



8.1. Publisher(s) represents and warrants to Adplex Media that:

- All content, products, and services on the Publisher's Website(s) are legal to distribute, that it owns or has the legal right to use, and will not infringe, any and all copyrights, trademarks, patents or other proprietary rights;
- The Publisher's Website(s) do not, and will not during the term of this Agreement, contain any material described in Section 4 of this Agreement;
- The Publisher's Website(s) are free of any "worm", "virus", "malware" or other device that could impair or injure any person or entity;
- It is generally familiar with the nature of the Internet and will comply with all rules and regulations that may apply; and it will conduct its business in compliance with all applicable laws, rules and regulations;
- It has full legal power and authority under its organizational documents to enter into this Agreement and to perform the obligations contained herein; and the execution of this Agreement and the performance of its obligations by Publisher(s) will not conflict with or a cause a breach or violation of any agreement, law, regulation or other obligation to which Publisher(s) is a party or subject; and
- The Publisher(s) must respect the prohibition of unsolicited advertisement ("Spam") when sending e-mails containing Advertising Material. Therefore, the consent of each and every recipient is to be obtained prior to sending e-mails; should Adplex Media so request, Publisher(s) must provide written evidence of such consent has been granted.

## 9. TERMINATION; CANCELLATION.

9.1. Adplex Media may at any time, in its sole discretion, immediately terminate this Agreement, or cancel any Ad(s). Adplex Media will make commercially reasonable efforts to notify Publisher(s) and Third Parties via e-mail of any such termination or cancellation within a reasonable period of time.

Publisher(s) may cancel or terminate this Agreement by removing the Adplex Media Javascript Tag from the Publisher's Website(s).

9.2. If either party does not fulfill a material obligation defined in this Agreement, the other party has the right to terminate this Agreement sixty (60) days following written notice to the party in breach, provided that such material breach remains uncured, without prejudice of the right to claim the damages caused to the non-breaching party.

## 10. CONFIDENTIALITY.

You agree not to disclose Adplex Media Confidential Information without Adplex Media's prior written consent. "Network Confidential Information" includes without limitation: (i) all Network software, technology, programming, technical specifications, materials, guidelines and documentation You learn, develops or obtains that relate to the Adplex Media Network; (ii) click-through rates or other statistics provided to You by Adplex Media; and (iii) any other information designated in writing by Adplex Media as "confidential" or any designation to the same effect. Adplex Media Network Confidential Information does not include information that has become publicly known through no breach by You or Adplex Media, or information that has been (i) independently developed without access to Adplex Media Network



Confidential Information, as evidenced in writing; (ii) rightfully received by You from a third party; or (iii) required to be disclosed by law or by a governmental authority.

## **11. DATA PROTECTION.**

11.1. Each party shall include conspicuously on its website(s), a privacy policy that describes how such party collects, uses, stores and discloses users' personal data if any is collected, including without limitation e-mail addresses, and instructs users how to opt-out of such practices. Publisher's privacy policy shall disclose that third party advertisers may place cookies on the browsers of visitors to Publisher's Website(s).

11.2. Each party warrants to the other that, during the term of this Agreement, it shall comply with all applicable rules and regulations (including but not limited to laws governing privacy, and data protection).

## **12. INDEMNIFICATION. LIMITATION OF LIABILITY.**

12.1. Indemnification. You agree to indemnify, defend and hold Adplex Media and its officers, directors, shareholders, successors, affiliates, employees, agents and representatives harmless from and against any and all costs, claims, demands, liabilities, expenses, losses, damages and attorney fees arising from any claims and lawsuits or proceeding for libel, slander, copyright, and trademark violation as well as all other claims resulting from (i) the participation on the Adplex Media Network, (ii) operation of the Publisher's Website(s) submitted to Adplex Media for participation on the Adplex Media Network or (iii) otherwise arising from a relationship with Adplex Media. You also agree to indemnify Adplex Media for any legal fees incurred by Adplex Media, acting reasonably, in investigating or enforcing its rights under this Agreement.

12.2. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL ADPLEX MEDIA BE LIABLE TO PUBLISHER WITH RESPECT TO ANY SUBJECT MATTER OF THESE TERMS AND CONDITIONS UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, WHETHER OR NOT Adplex Media HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM ANY PROVISION OF THESE TERMS, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE. IN NO EVENT SHALL Adplex Media'S AGGREGATE LIABILITY ARISING OUT OF THESE TERMS AND CONDITIONS EXCEED THE PAYMENTS TO THE PUBLISHER HEREUNDER.

## **13. MODIFICATION.**

13.1. Adplex Media reserves the right to amend these provisions of the present Agreement that are minor in scope or nature, and to do so without citing any reasons, provided such modifications do not lead to the Agreement as a whole being restructured. Adplex Media will communicate, by e-mail, the modified conditions at least two weeks prior to the Effective Date. Publishers who do not object in text form (letter, e-mail, fax) to the modification within four weeks after the receipt of the e-mail will be deemed

to have accepted the respective modification. Adplex Media will specifically indicate the possibility of objecting to the modification and the consequences of the four-week deadline.



13.2. If the Publisher(s) objects to the new (modified) Terms, Adplex Media(s) request to so modify them will be deemed to have been rejected. The Agreement will then be continued without the proposed modification. The right of the parties to terminate their participation on the Adplex Media Network remains unaffected hereby. The possibility of terminating the Agreement will also be indicated specifically.

#### **14. DISPUTE RESOLUTION.**

14.1. This Agreement shall be governed by and interpreted in accordance with the laws of Republic Of Cyprus.

14.2. For any matter related to the interpretation or execution of this Agreement, the parties expressly waive to submit to any courts which might have jurisdiction over the subject matter, and agree to submit to the sole competence and jurisdiction of the Cyprus Courts.

#### **15. GENERAL PROVISIONS.**

15.1. Force Majeure. Except for payment obligations, if either party is prevented from performing or is unable to perform any of its obligations under this Agreement due to causes beyond the reasonable control of the party invoking this provision, including but not limited to acts of God, acts of civil or military authorities, riots or civil disobedience, wars, strikes or labor disputes (each, a "Force Majeure Event"), such party's performance shall be excused and the time for performance shall be extended accordingly provided that the party immediately takes all reasonably necessary steps to resume full performance. If such party remains unable to resume full performance fifteen (15) days after the Force Majeure Event, the other party may terminate this Agreement upon written notice.

15.2. Severability. Should any of the provisions of this Agreement be adjudged invalid or unenforceable by the rules and regulations of the Republic Of Cyprus or the Courts Of Cyprus, such provisions shall be deemed several from the remainder of this Agreement and not affect the validity or enforceability of the remainder of this Agreement. In that case, such provisions shall be changed and interpreted to achieve the purposes of those provisions as much as possible within the extent of relevant laws or judgment of the court.

15.3. Survival. Sections 11, 12, 13, 16 and 17 shall survive termination or expiration of this Agreement for any reason. All other rights and obligations of the parties under this Agreement shall expire upon termination of this Agreement, except that all payment obligations accrued hereunder prior to termination or expiration shall survive such termination.

15.4. Assignment. Neither party may assign, sublicense, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, either party may, without the consent of the other party, assign this Agreement to an entity merging with, consolidating with, or purchasing substantially all its assets or stock, provided that the assignee shall assume in writing all rights and obligations under this Agreement.

15.5. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in person (including by internationally recognized commercial delivery service), and on the day the notice is sent when sent by verified facsimile, if the time of transmission is during recipient's business day, or if not on the next business day thereafter, in each case to the respective parties at the addresses provided by the them in writing.



Either party may change its address by providing the other party with written notice of the change in accordance with this section.

15.6. Relationship of Parties. The parties are independent contractors and will have no right to assume or create any obligation or responsibility on behalf of the other party. Neither party shall hold itself out as an agent of the other party. This Agreement will not be construed to create or imply any partnership, agency, joint venture or formal business entity of any kind.

15.7. Waiver. No delay or failure by either party to exercise any right or remedy under this Agreement will constitute a waiver of such right or remedy. All waivers must be in writing and signed by an authorized representative of the party waiving its rights. A waiver by any party of any breach or covenant shall not be construed as a waiver of any succeeding breach of any other covenant.

**Adplex Media Ltd**

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