



REAL AUDIENCES ADVERTISER AGREEMENT

Last updated: 22 September 2022

THIS AGREEMENT GOVERNS YOUR ACQUISITION AND USE OF THE REAL AUDIENCES LLC HOSTED SERVICE.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY ACCESSING OR USING THE HOSTED SERVICE, OR OTHERWISE BIDDING ON INVENTORY ON, OR DELIVERING ADS VIA, THE HOSTED SERVICE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "ADVERTISER", "YOU" AND "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE PLATFORM AND SERVICE.

You may not access the Hosted Service if You are a direct competitor of REAL AUDIENCES, except with REAL AUDIENCES prior written consent. In addition, You may not access the Platform and Service for purposes of monitoring its performance or functionality, or for any other benchmarking or competitive purposes.

I. DEFINITIONS

- A. "Account" means the account assigned by REAL AUDIENCES LLC to Advertiser to access and use the Hosted Service.
- B. "Account Balance" means the then-current total monetary balance attributed to Advertiser's Account from which Advertiser may place bids and purchase Inventory for the delivery of Ad(s) using the Hosted Service.
- C. "Ad" means any material that promotes a brand, product or service, including video ads, interstitial ads, ad banners, badges, buttons and text links.
- D. "Ad Spend" means the total amount Advertiser deducts from its Account Balance for the purchase of Inventory.
- E. "Advertiser", "You" or "Your" means the company or other legal entity for which you are accepting this Agreement.
- F. "Advertiser Content" means any and all information, content and Ads that Advertiser uploads to or through, or deliver using, the Hosted Service.
- G. "Agreement" means this REAL AUDIENCES LLC Advertiser Agreement.
- H. "Effective Date" means the date on which Advertiser accepts this Agreement.
- I. "End User" means any end user of a mobile app or mobile website that views, is able to view, or interacts with an Ad delivered in connection with the Hosted Service.



J. "Intellectual Property Rights" means, in any jurisdiction worldwide, all copyrights, trademark rights, patent rights, trade secret rights, moral rights, rights in domain name registrations, rights in confidential or proprietary information, privacy rights, rights of publicity, and any and all other intellectual property rights.

K. "Order" means the purchase of Inventory for the delivery of Ad(s) resulting from a successful Advertiser bid using the Hosted Service.

L. "Inventory" means elements of a website or mobile application that a Third Party Ad Exchange or publisher designates for the placement of Ads.

M. "Hosted Service" means REAL AUDIENCES LLC proprietary hosted, on-demand, Web-based real-time bidding platform for automated, real-time bidding to match Ads with Inventory. The Hosted Service allows for the targeted delivery of Ads on mobile websites and mobile applications, including all related user portals, technology and software, and any related service, whether managed by REAL AUDIENCES LLC or a third party, but specifically excluding the REAL AUDIENCES LLC Code. No software is delivered to or downloadable by Advertiser.

N. REAL AUDIENCES LLC means the REAL AUDIENCES LLC company described in Section XI.I.

O. "REAL AUDIENCES LLC Code" means REAL AUDIENCES LLC (i) pixels and scripts, including for conversion and click-thru tracking, ad tags, and impression counting, (ii) APIs for programmatic media buying and reporting, and (iii) all other computer software code made available by REAL AUDIENCES LLC.

P. "Taxes" means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including VAT (subject to reverse charge), GST (subject to reverse charge), excise, sales, use, consumption and withholding taxes.

Q. "Third Party Ad Exchange" means a provider of Inventory to REAL AUDIENCES LLC (commonly referred to as a supply side platform (SSP), ad exchange or ad network).

R. "Third Party Advertiser" means an advertiser (other than Advertiser) that may provide Ads for Advertiser to deliver via the Hosted Service.

S. "User Data" means any data that REAL AUDIENCES LLC collects during delivery of Ads or performance of its obligations under this Agreement, including End User device information, End User session-based browsing behavior, number of impressions, http header information, and any other data that Advertiser elects to provide to REAL AUDIENCES LLC.

T. "User Volunteered Data" means any personally identifiable information of End Users collected by Advertiser or a Third Party Advertiser via any Ad.

U. "Website" means, collectively, the websites operated by REAL AUDIENCES LLC



II. HOSTED SERVICE

A. License to Hosted Service. Subject to the terms and conditions of this Agreement, REAL AUDIENCES LLC grants Advertiser a limited, revocable, non-exclusive, non-transferable, non-assignable, non-sublicenseable right to access the Hosted Service solely for the purposes of: (i) bidding on, and placing Orders for, Inventory on the Hosted Service; and (ii) receiving reports of advertising requests, impressions and other data related to the delivery of Ads through the Hosted Service.

B. Availability. The parties shall agree on the number of authorized Accounts to be furnished to Advertiser. Advertiser is solely responsible for the security of such Account(s), including Advertiser's password(s) to such Account(s), and shall be responsible for the activities of any person accessing the Hosted Service using an Account, whether authorized by Advertiser or not. REAL AUDIENCES LLC will use commercially reasonable efforts to provide the Hosted Service on a continuous basis; however, availability is not guaranteed. REAL AUDIENCES LLC reserves the right to modify the Hosted Service in whole or in part at any time in its sole discretion.

C. Restrictions. Advertiser will not, and will not allow any third party to: (i) copy, distribute, rent, lease, lend, sublicense, transfer or make the Hosted Service available to any third party; (ii) decompile, reverse engineer, or disassemble the Hosted Service; (iii) create derivative works based on the Hosted Service; (iv) modify, remove, or obscure any proprietary notices or legends that appear on the Hosted Service or during the use and operation thereof; (v) create or attempt to create a substitute or similar service or product through use of or access to any of the Hosted Service or proprietary information related thereto; (vi) use an anonymizing proxy to access the Hosted Service; (vii) use a credit card to make a payment to REAL AUDIENCES LLC that was not authorized by the credit card holder; (viii) do anything that could disable, over-burden or impair REAL AUDIENCES LLC servers or the proper working of the Hosted Service (including a denial of service attack); or (ix) gain, or attempt to gain, unauthorized access to the Hosted Service, or access to pages of the Hosted Service for which Advertiser is not authorized by REAL AUDIENCES LLC.

D. Prohibited Activities. Advertiser is prohibited from accessing the Hosted Service to: (i) engage in any marketing activities, promote any product or service or do anything that is illegal, obscene, misleading, discriminatory, defamatory, threatening or harassing; (ii) infringe, misappropriate, or otherwise violate REAL AUDIENCES LLC or any third party's Intellectual Property Rights; (iii) use Advertiser's Account in any manner that results, or could result, in complaints, claims, fees, fines, penalties or any other liability to REAL AUDIENCES LLC or to Advertiser; (iv) frame, or utilize framing techniques to enclose, any trademark, logo or other proprietary information (including images, text, page layout and form) of REAL AUDIENCES LLC or its affiliates; (v) generate queries, or impressions of or clicks on Ads through any automated, deceptive, fraudulent or other invalid means (including, click spam, robots, macro programs, and Internet agents); (vi) encourage or require End Users to click on Ads through offering incentives or any other methods that are manipulative, deceptive, malicious or fraudulent; (vii) spread, or facilitate the spread of, any viruses, worms or other malicious computer programs that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; or (viii) use any robot, spider, other computer program, or manual process to monitor or copy the Hosted Service, or any portions thereof.

E. Disclosures. Advertiser acknowledges and agrees that: (i) it is solely responsible for ensuring the accuracy of all information Advertiser provides in accessing the Hosted Service (including the entering of bidding amounts and criteria, and URLs); (ii) the highest bid may not win an auction; (iii) a seller of Inventory has the right to exclude Advertiser or any or all Third Party Advertisers from bidding on such Inventory at any time for any reason; (iv) the Hosted Service allows for transactions in real time, and bids and offers may compete simultaneously against multiple other bids and offers; and (v) Advertiser will have no recourse for any transaction that does or does not occur and REAL AUDIENCES LLC makes no guarantee regarding the level of impressions



of Ads, the timing of delivery of such impressions or the amount of any payment to be made or due hereunder. Advertiser shall have no rights or licenses with respect to the Hosted Service except as expressly provided in this Agreement and REAL ma

III. ADS AND ADVERTISER CONTENT

A. Advertiser License. Subject to the terms and conditions of this Agreement, Advertiser grants Real Audiences, its affiliates, subsidiaries and suppliers a worldwide, royalty-free, non-exclusive, transferrable license, under all of Advertiser's Intellectual Property rights, to: (i) deliver, route and place Ads on Inventory via the Hosted Service; and (ii) use, display, perform, reproduce, distribute, publish, modify, adapt, translate, and create derivative works from, Advertiser Content solely in the manner and for the purposes for which the Hosted Service are used from time to time.

B. Ad Requirements. Advertiser must ensure that all Ads that Advertiser submits for publishing comply with the following (collectively, the "Ad Requirements"): (i) Real Audiences's technical requirements (as posted on the Website or the Hosted Service, each as amended from time to time); (ii) the applicable publisher's rules, guidelines, policies, size parameters and submission requirements (as posted on the publisher's website, the Website or the Hosted Service, each as amended from time to time); (iii) the Creative Policies located at <https://www.RealAudiences.com/creative-policy>, as amended from time to time; (v) any other policies that Real Audiences makes available to Advertiser (as posted on the Website or the Hosted Service) from time to time; and (vi) the terms and conditions of this Agreement. If Advertiser is uncertain as to whether Advertiser's Ad meets the publisher's guidelines, Advertiser should contact a Real Audiences representative prior to placing Advertiser's Ad in order to avoid interruptions, penalties or Account suspension or closure.

C. Ads Subject to Review. Advertiser agrees that Real Audiences has no obligation to monitor or edit the content of Ads or Advertiser Content. Real Audiences may, however, screen, remove, edit, or block any Ad or Advertiser Content that in Real Audiences's sole reasonable judgment: (i) violates any of the Ad Requirements; or (ii) is appropriate to prevent errors or any harm with respect to the Hosted Service.

D. Tracking. Real Audiences will determine in its sole discretion how to measure the number of impressions, inquiries, conversions, clicks, offers, installations, or other actions taken by third parties in connection with Ads, and all payments will be based on such measurements. Any third-party tracking tool, script, SDK, or code for measuring and tracking clicks, conversions, app installs and other related data used by Advertiser or any other third party will not bear on such measurement and Real Audiences will have no liability for malfunctions, discrepancies, or any and all circumstances that lead to wrong data.

E. Copies of Ads. Advertiser is solely responsible for maintaining copies of all Ads and Advertiser Content. Real Audiences will not be liable to Advertiser, or to any third party, for the deletion, loss or damage to Ads or Advertiser Content.

IV. WARRANTIES

A. Mutual Warranties. Each party represents and warrants that: (i) it has the legal authority to enter into and perform under this Agreement; (ii) entering into and performing under this Agreement will not conflict with any other agreement between such party and a third party; and (iii) it will comply with all applicable laws in its performance hereunder.

B. Advertiser Warranties. Advertiser warrants that in its use of the Hosted Service it: (i) will comply with the Ad Requirements; (ii) comply with all applicable privacy policies of the publishers of the Inventory; (iii) is solely responsible for all aspects of dealing



with End Users and Third Party Advertisers (e.g., selling, collection of payment, client service); (iv) is solely responsible for correctly installing and using Real Audiences-provided "conversion pixels" in the manner specified (to track the number of conversions, eCPA, revenue and conversion rates related to Ads); (v) has the lawful right to post and distribute Advertiser Content to or through the Hosted Service; and (vi) is solely responsible for the Advertiser Content, including with respect to the Advertiser Content's quality, accuracy, legality and appropriateness.

C. **Real Audiences Warranties.** Real Audiences warrants that: (i) it owns or otherwise has sufficient rights in the Hosted Service to grant to Advertiser the rights granted herein; (ii) it will take commercially reasonable administrative, physical and technical measures to safeguard the security of Advertiser Content and shall treat such information in accordance with the Real Audiences Privacy Policy; and (iii) the Hosted Service will not contain or transmit to Advertiser any computer viruses or other harmful or malicious code, files, scripts, agents or programs.

D. **No Representations or Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. REAL AUDIENCES MAKES NO REPRESENTATIONS TO ADVERTISER IN RESPECT OF EXPECTED IMPRESSIONS, TIMING OF DELIVERY, REVENUE, THE ACCURACY OF INFORMATION COLLECTED BY "CONVERSION PIXELS" OR THE DATA DERIVED FROM SUCH INFORMATION OR ANY OTHER ANTICIPATED BENEFITS RELATED TO ADVERTISER'S USE OF THE HOSTED SERVICE.

V. FEES; BILLING & PAYMENT

A. **Placement of Orders.** All fees for the purchase of Inventory Advertiser makes via the placement of Orders will automatically be deducted from Advertiser's Account Balance if the Account is pre-paid, or applied to Advertiser's Account Balance if the Account is credited. Such Orders and fees are calculated using Real Audiences's statistics and data; if these differ from any other statistics or data, Real Audiences's measurements will prevail. Real Audiences is entitled to act on instructions received from Advertiser's Account. Once the bid that Advertiser places on Inventory is accepted, Advertiser has purchased such Inventory and a non-refundable Order is placed. For the avoidance of doubt, the amount spent by Advertiser on purchasing Inventory via the placement of Orders are inclusive of all Real Audiences-added fees but exclusive of any and all Taxes. If Advertiser's Account Balance is less than that required to purchase the Inventory that Advertiser intended to purchase, the contemplated transaction may not be completed. If the transaction is not completed, Real Audiences will not be liable to Advertiser or to any third party, for any loss suffered as a result of such incomplete transaction. If, from time to time, Real Audiences authorizes the purchase of Inventory in excess of Advertiser's Account Balance or provides credit to Advertiser's Account, then Real Audiences will invoice Advertiser for all fees charged to Advertiser in excess of any pre-funded amounts.

B. **Ad Spend Over/Under Budget.** Real Audiences makes no guarantee that the actual campaign Ad Spend, via real-time bidding ("RTB"), will exactly match the pre-set campaign budget amount. More often than not, the actual spend will either exceed or fall below the pre-set budget amount under the RTB environment. For cases when spend exceeds budget, Real Audiences will charge Advertiser's Account for the appropriate difference. If the RTB ad server functionality fails to deliver Advertiser's Ads as required, Real Audiences will not reimburse Advertiser for the amounts that Advertiser paid to Real Audiences for the Ads that were not delivered. Ads not delivered may be due to Advertiser's faulty ad tag and as such is not the responsibility of Real Audiences. Advertiser will be billed for all impressions won even if they are not delivered as a result of faulty Ad tags.



C. **Funding Advertiser's Account.** Advertiser must have a sufficient Account Balance before Advertiser will be permitted to place bids using the Hosted Service. Real Audiences may, in its sole discretion, credit the Account Balance for a designated amount. If no credit is provided by Real Audiences, Advertiser must pre-pay Real Audiences to fund the Account Balance. Advertiser will not be permitted to bid on and purchase any Inventory, until after the funding payment has been processed and the funded amount has been credited to Advertiser's Account Balance. Advertiser is responsible for confirming the accuracy of all information provided for payments (i.e. contact information, payment amount, credit card numbers and expiry dates, wire information, etc., as applicable). Advertiser hereby authorizes Real Audiences to perform credit checks with and obtain information about Advertiser from credit reporting agencies, banks, and other similar sources. Real Audiences may, in its sole discretion, change the limits, or impose new restrictions, on the amount that Advertiser is permitted to deposit, or required to maintain, in Advertiser's Account Balance.

D. **Payment of Fees.** For credited Accounts, Real Audiences will send Advertiser an invoice at the end of each calendar month for the total amount of Order(s) placed by Advertiser. All fees and other payments are due and payable within 30 days of the date of invoice. All fees not paid to Real Audiences by Advertiser within thirty (30) days of invoice are subject to a finance charge equal to the lesser of (i) one and one half percent (1.5%) per month, or

(ii) the maximum amount permitted by applicable law. Advertiser will be responsible for, and must immediately pay to Real Audiences upon demand, any costs incurred by Real Audiences (including legal fees) in connection with the collection any past-due invoices. Unless otherwise specified, dollar amounts on the Website and Hosted Service refer to US dollars and all fees shall be payable in US dollars.

E. **Security interest.** To secure the performance of Advertiser's obligations under this Agreement, Advertiser grants to Real Audiences a lien on, and security interest in and to, the funds held in Advertiser's Account.

F. **Violations.** Advertiser agrees that it is responsible to Real Audiences for Advertiser's violation of the Ad Requirements. If any third party (including a Third Party Ad Exchange) imposes any penalty, fine, or other fee on Real Audiences in connection with or arising out of Advertiser's failure to comply with such obligations, then Advertiser will be fully responsible to indemnify Real Audiences for any such penalties, fines, or other fees. Advertiser hereby authorizes Real Audiences to deduct such amounts from Advertiser's Account or otherwise invoice Advertiser, in its sole discretion.

VI. TERM; TERMINATION

A. **Term.** This Agreement shall start on the Effective Date and, unless earlier terminated, continue for a period of one year following the Effective Date ("Initial Term") and shall automatically renew for successive one year terms

(each, a "Renewal Term" and together with the Initial Term, the "Term") unless either party gives written notice of such party's intent not to renew at least sixty (60) days prior to the start of the Initial Term or any Renewal Term.



B. Termination for Cause. Either party may terminate this Agreement for cause: (i) upon 30 days prior written notice to the other party of a material breach by the other party, if such breach remains uncured at the end of such period; (ii) immediately upon written notice if the other party becomes the subject of bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding; or (iii) immediately upon written notice if the other party undergoes a change of control in favor of a direct competitor of the terminating party.

C. Termination for Convenience. Advertiser may terminate this Agreement and close its Account without any liability to Real Audiences for any or no reason, with ten (10) days' written notice to Real Audiences and will make full payment on all amounts owed. Real Audiences may terminate this Agreement and close Advertiser's Account without any liability to Real Audiences for any or no reason, with prior written notice to Advertiser. Advertiser agrees to make full payment on all amounts then-owed to Real Audiences in the event Advertiser or Real Audiences exercises their termination rights pursuant to this Section VI.C.

D. Suspension. Real Audiences reserves the right to temporarily suspend service to the extent Advertiser: (i) fails to pay invoices when due; (ii) fails to abide by the Ad Requirements; or (iii) uses the Hosted Service in a manner that degrades the performance of the Hosted Service for other Real Audiences customers.

E. Refund of Account Balance. Real Audiences will refund the unused prepaid fees comprising Advertiser's Account Balance (if any) within thirty (30) days of receiving written instructions from Advertiser as where to refund such balance: (i) upon any termination for cause or convenience by Advertiser pursuant to Sections VI.B or VI.C; and

(ii) upon any termination for convenience by Real Audiences pursuant to Section VI.C.

F. Effect of Termination. All provisions of this Agreement which by their nature should survive termination, including but not limited to Sections IV.D, V.D-F, VII, VIII, IX, X and XI of this Agreement, shall survive expiration or termination of this Agreement. Upon termination or expiration of this Agreement for any reason, all licenses granted herein shall terminate and Advertiser shall discontinue all use of the Hosted Service.



VII. OWNERSHIP

A. **Advertiser Property.** As between the parties, Advertiser retains all ownership rights in and to any materials created, developed or provided by Advertiser in connection with this Agreement (including User Data, Ads and Advertiser Content) and all Intellectual Property Rights related to each of the foregoing.

B. **Real Audiences Property.** As between the parties, Real Audiences retains all ownership rights in and to the Website, any content thereon, the Hosted Service, the technology related to the Hosted Service, any and all technology and any content created or derived from any of the foregoing and any materials created, developed or provided by or on behalf of Real Audiences in connection with this Agreement, including all Intellectual Property Rights related to each of the foregoing.

C. **User Data.** In connection with the operation of the Hosted Service, Real Audiences collects and receives User Data with regard to Advertiser's use of the Hosted Service. Advertiser agrees that Real Audiences may: (i) use such information for Real Audiences's internal business purposes so long as such use is in compliance with all applicable privacy policies, laws, rules, regulations and industry self-regulatory regimes relating to the collection, use and disclosure of such information, and that it obtains any consents, authorizations and clearances from End Users that may be required in connection therewith; (ii) disclose such information as may be required by law or legal process; and (iii) use and disclose such information when it is aggregated with similar information relating to other Real Audiences customers or End Users and when it does not specifically identify the Advertiser or End User. Advertiser may use User Data for Advertiser's internal business purposes so long as such use is in compliance with all applicable privacy policies, laws, rules, regulations and industry self-regulatory regimes relating to the collection, use and disclosure of User Data, and that it obtains any consents, authorizations and clearances from End Users that may be required in connection therewith.

D. **User Volunteered Data.** If Advertiser enables the collection of any User Volunteered Data via Ads, Advertiser must expressly disclose to such individual End User that such collection is solely on behalf of Advertiser (and not Real Audiences). As between Real Audiences and Advertiser, User Volunteered Data shall be the sole property and Confidential Information of Advertiser or its Third Party Advertiser, and shall be subject to any Advertiser and Third Party Advertisers' posted privacy policies.

E. **Feedback.** Advertiser is not required to provide any feedback or suggestions to Real Audiences (collectively, "Feedback"). To the extent Advertiser does provide any such Feedback, Advertiser agrees to assign and hereby does assign all right, title and interest in and to such Feedback to Real Audiences and acknowledges that Real Audiences may use any and all Feedback without any obligation to provide compensation to Advertiser.

VIII. LIMITATION OF LIABILITY

A. **EXCEPT WITH RESPECT TO LIABILITIES ARISING OUT OF A PARTY'S INDEMNIFICATION OBLIGATIONS, ADVERTISER'S BREACH OF THE LICENSES GRANTED TO ADVERTISER, OR EITHER PARTY'S BREACH OF ITS**



CONFIDENTIALITY OBLIGATIONS HEREIN: (I) NEITHER PARTY IS LIABLE TO THE OTHER PARTY HEREUNDER FOR ANY PUNITIVE, INCIDENTAL, INDIRECT, SPECIAL, RELIANCE OR CONSEQUENTIAL DAMAGES, INCLUDING LOST BUSINESS, REVENUE, OR ANTICIPATED PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES; AND (II) IN NO EVENT WILL EITHER PARTY'S LIABILITY AND DAMAGES UNDER THIS AGREEMENT EXCEED THE SUM OF THE TOTAL FEES PAID TO REAL AUDIENCES UNDER THIS AGREEMENT OVER THE 12 MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY.

IX. CONFIDENTIALITY

A. "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement, the features and functionality of the Hosted Service, information and data made available through the Hosted Service (including publisher information, publisher website statistics and inventory prices), Advertiser Content, User Data and nonpublic business, financial, product and technical information. Confidential Information does not include information that: (a) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party; (b) was known to Receiving Party prior to its disclosure by Disclosing Party without breach of any obligation owed to Disclosing Party; (c) is independently developed by Receiving Party without breach of any obligation owed to Disclosing Party; or (d) is received from a third party without breach of any obligation owed to Disclosing Party.

B. Use and Disclosure Restrictions. Each party shall not use the other party's Confidential Information except as necessary to exercise its rights or perform its obligations under this Agreement. Each party shall not disclose the other party's Confidential Information to any third party except to those of its employees, subcontractors, and advisers that need to know such Confidential Information for the purposes of this Agreement, provided that each such third party is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective of Confidential Information as those set forth herein. Each party will use all reasonable efforts to maintain the confidentiality of all Confidential Information of the other party in its possession or control, but in no event less than the efforts that party ordinarily uses with respect to its own proprietary information of similar nature and importance. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to contest such order or requirement; or (ii) on an as-needed, confidential basis to its legal or financial advisors. In addition, each party may disclose the terms and conditions of this Agreement as required under applicable securities regulations and on a confidential basis to current or prospective investors or acquirers of such party.

X. INDEMNIFICATION

A. Real Audiences Indemnification. Real Audiences agrees to indemnify, defend, and hold Advertiser and its directors, officers and employees harmless from and against any third party liabilities, damages or expenses (including reasonable attorneys' fees) arising out of any claim, demand, action, or proceeding initiated by a third party: (i) to the extent alleging that the technology underlying the Hosted Service, or any portion thereof, infringes any third party United States patent or copyright issued or registered as of the Effective Date or misappropriates any third party trade secret; or (ii) attributable to the alleged or actual breach of Real Audiences's representations and warranties set forth in this Agreement or its Privacy Policy.



B. Advertiser Indemnification. Advertiser agrees to indemnify, defend, and hold Real Audiences and its directors, officers and employees harmless from and against any liabilities, damages or expenses (including reasonable attorneys' fees) arising out of any claim, demand, action, proceeding, fine, or penalty initiated or imposed by a third party to the extent attributable to: (i) Advertiser's failure to secure all rights, title, and interest necessary to display the Ads via the Hosted Service; (ii) allegation that the content, or that the services, products or goods being advertised in the Ads, violate any applicable law; (iii) allegation that the Ads infringe upon, violate, or misappropriate any Intellectual Property Rights, or slander, defame, or libel any person; or (iv) any alleged breach by Advertiser of its obligations under this Agreement.

C. Procedure: As a precondition to indemnity coverage, the party seeking indemnification (the "Indemnified Party") must comply with the following indemnification procedures: (a) Indemnified Party promptly notifies indemnifying party (the "Indemnifying Party") in writing of the claim, except that any failure to provide this notice promptly only relieves Indemnifying Party of its indemnification responsibility to the extent its defense is materially prejudiced by the delay; (b) grants Indemnifying Party sole control of the defense or settlement of the claim; and (c) provides Indemnifying Party, at Indemnifying Party's expense, with all assistance, information and authority reasonably required for the defense or settlement of the claim, but in a manner consistent with Indemnified Party's confidentiality obligations and preservation of attorney/client and work product privileges.

D. Exclusions. Real Audiences assumes no indemnity liability for the following: (i) any infringement claims (including without limitation combination or process patents) arising out of the combination of the Hosted Service or use with other hardware, software or other items not provided by Real Audiences to the extent such infringement would not have occurred absent such combination or use; (ii) any unauthorized modification of the Hosted Service; or (iii) any claims arising out of Real Audiences's compliance with Advertiser's specifications or designs. In the event of a claim, demand, action or proceeding that the technology underlying the Hosted Service, or any portion thereof, infringes or misappropriates any third party intellectual property or other right or, if in Real Audiences's reasonable opinion, such claim, demand, action or proceeding is likely to occur, Real Audiences shall have the right, at Real Audiences's sole cost and expense, to either: (a) obtain the right to continued use of the affected portion of the Hosted Service, or (b) modify or replace, in whole or in part, the affected portion of the Hosted Service to eliminate the infringement or misappropriation. If Real Audiences is unable to achieve the foregoing (a) or (b) in a commercially reasonable manner, Real Audiences shall have the right to immediately terminate this Agreement upon written notice to Advertiser without liability therefor. The provisions of this Section X constitute Advertiser's sole remedy and Real Audiences's exclusive liability related to the Hosted Service with respect to any infringement, violation, or misappropriation of any Intellectual Property Right.

XI. MISCELLANEOUS

A. Relationship of the Parties. The parties are independent contractors with respect to each other and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby. There are no third party beneficiaries to this Agreement.

B. Assignment; Successors. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, except that Real Audiences may assign its rights and obligations under this Agreement without the consent of Advertiser in connection with any merger (by operation of law or otherwise), consolidation, reorganization, change in control or sale of all or substantially all of its assets related to this Agreement or similar transaction. Any attempted assignment in breach of this section shall be void. This Agreement inures to the benefit of and binds Advertiser and Real Audiences, and each of Advertiser's and Real Audiences's respective heirs, executors, administrators, successors and permitted assigns, as applicable.



C. Privacy Policy. Please refer to Real Audiences's privacy policy, available at www.RealAudiences.com/privacy ("Privacy Policy") for information on how Real Audiences collects, uses and discloses Advertiser's personally identifiable information. By using the Hosted Service, Advertiser agrees to Real Audiences's use, collection and disclosure of personally identifiable information in accordance with the Privacy Policy.

D. Force Majeure. Except for payment obligations, neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, internet or telecommunications failures, shortages of or inability to obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action, acts by hackers or other malicious third parties and problems with the Internet generally, and such performance shall be excused to the extent that it is prevented or delayed by reason of any of the foregoing.

E. Notices. All notices under the terms of this Agreement shall be posted on the Website or Platform or given in writing (email permitted). All notices sent by Advertiser are deemed to have been received immediately if sent via email to Real Audiences at legal@RealAudiences.com (unless notice is received that the email was not delivered). All notices sent by Real Audiences are deemed to have been received immediately upon it being posted to the Website or the Hosted Service or sent to Advertiser via email (unless notice is received that the email was not delivered). Any other written notices shall be effective upon receipt.

F. Marketing. Either party may include the name and logo of the other in customer or vendor lists.

G. Waiver; Remedies; Invalid Terms. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Any effective waiver must be in writing and signed by the party against whom the waiver is to be asserted. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

H. Headings; Construction. Section headings are for reference purposes only, and should not be used in the interpretation hereof. This Agreement shall be fairly interpreted and construed in accordance with its terms and without strict interpretation or construction in favor of or against either party. Each party has had the opportunity to consult with counsel in the negotiation of this Agreement. No provision of this Agreement will be construed against either party as the drafter thereof.

I. Dispute Resolution. Both parties agree to make reasonable, good faith efforts to promptly resolve any dispute hereunder, including escalating within their respective organizations as appropriate, prior to commencing any action.

J. Real Audiences Entity; Governing Law; Jurisdiction. Who You are contracting with under this Agreement, what law will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and which courts have jurisdiction over any such dispute or lawsuit, depend on where You are domiciled.



K. Confirmation of information provided. Advertiser authorizes Real Audiences, directly or through its third party designees, to make any inquiries Real Audiences considers necessary to validate Advertiser's identity. This may include asking Advertiser for further information, requiring Advertiser to take steps to confirm ownership of the email address Advertiser provides, ordering a credit report, or verifying the information Advertiser provides against third party databases or through other sources. Advertiser further agrees to cooperate in any investigation by Real Audiences or any party acting on Real Audiences's behalf.

L. Changes to Agreement. Real Audiences reserves the right, at its discretion, to change the terms of this Agreement on a going-forward basis at any time. Advertiser agrees to check this Agreement periodically for changes. In the event that a change to this Agreement materially modifies Advertiser's rights or obligations, Real Audiences will make reasonable efforts to notify Advertiser of such change. Real Audiences may provide notice through a pop-up or banner within the Platform and Service, by sending an email to any address Advertiser may have used to register for its Account, or through other similar mechanisms. Additionally, if the changed Agreement materially modifies Advertiser's rights or obligations, Real Audiences may require Advertiser to provide consent by accepting the changed Agreement. If Real Audiences requires Advertiser's acceptance of the changed Agreement, changes are effective only after Advertiser's acceptance. If Advertiser does not accept the changed Agreement, Advertiser must stop using the Platform and Service immediately and notify Real Audiences via email at: legal@RealAudiences.com. All other changes are effective upon publication of the changed Agreement. Disputes arising under this Agreement will be resolved in accordance with the version of this Agreement that was in effect at the time the dispute arose.

M. Entire Agreement. This Agreement constitutes the complete, final and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous oral or written representations, understandings, agreements or communications between them concerning the subject matter hereof. No additional purchase order terms shall be effective. Subject to Section XI.L, any effective amendment to this Agreement must be in a writing executed by both parties.



XII ARBITRATION

A. General. In the interest of resolving disputes between Advertiser and Real Audiences in the most expedient and cost effective manner, the parties agree that every dispute arising in connection with this Agreement will be resolved by binding arbitration. EACH PARTY UNDERSTANDS AND AGREES THAT, BY ENTERING INTO THESE TERMS, THE PARTIES ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION. EACH PARTY AGREES THAT IT MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

B. Arbitration. Which arbitrators have jurisdiction over any dispute arising out of or in connection with this Agreement, which arbitration rules will apply in resolving any such dispute and the location of any arbitration hearing, depend on where You are domiciled.

C. IF YOU ARE DOMICILED IN THE UNITED STATES OF AMERICA, MEXICO OR CANADA THEN THIS SECTION XII.C APPLIES TO YOU:

(i) Exceptions. Despite the provisions of Section XII.A, the parties agree that nothing in this Agreement will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through an applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law; or (d) to file suit in a court of law to address an intellectual property infringement claim.

(ii) Arbitrator. Any arbitration under this Agreement will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org.

(iii) Location. Any arbitration hearing will take place at a location to be agreed upon in San Francisco County, California, but if the claim is for \$10,000 or less, Advertiser may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; or (b) through a non-appearance based telephone hearing. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

(iv) One Claim. Unless both of the parties agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

(v) Enforceability. If any or all of this Section XII.C is found to be unenforceable, then the entirety of this Section XII.C will be null and void and, in that case, the parties agree that the applicable exclusive jurisdiction and venue described in Section XI.J will govern any action arising out of or related to this Agreement.



D. IF YOU ARE DOMICILED IN ANY COUNTRY EXCEPT THE UNITED STATES OF AMERICA, MEXICO OR CANADA THEN THIS SECTION XII.D APPLIES TO YOU:

(i) General. Any dispute arising out of or in connection with this Agreement including any questions regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force which rules are deemed to be incorporated by reference into this Clause. The Tribunal shall consist of one arbitrator to be appointed by the Chairman of the Singapore International Arbitration Centre. The language of the arbitration shall be English. The decision in writing of the Arbitrator shall be final and conclusive upon both parties. The costs and expenses of arbitration, including the compensation and expenses of the Arbitrator, shall be borne by the parties as the Arbitrator may determine. Either party may apply to any court which has jurisdiction for an order confirming the award or commence legal proceedings to sue on the award. Except as provided below, any right of either party to judicial action on any matter subject to arbitration hereunder is hereby waived, except suit to enforce the arbitration award.

(ii) Power of Arbitrator. In proceeding with the arbitration provided for herein, and in making determinations thereunder, the Arbitrator shall not extend, modify or suspend any of the terms of this Agreement or the reasonable standards of business performance and operation established by Real Audiences in good faith. A notice of or request or demand for arbitration will not operate to stay, postpone or rescind the effectiveness of any termination.

(iii) Injunctions. Notwithstanding the provisions of Section XI.J or this Section XII.D, and the arbitration provided for herein, actions initiated or maintained by either party for injunctive, whether mandatory or prohibitory or similar relief in equity are not subject to arbitration and may be brought by such party in any court which has jurisdiction. Actions may also be initiated or maintained by either party where the same is relevant or necessary for such Party to obtain or secure any interlocutory or interim relief, including but not limited to proceedings for detention, custody or preservation of any property. For the purposes of this Section XII.D (iii) hereof, the Parties agree that the courts of Singapore shall have jurisdiction to hear and determine any action or proceeding arising out of or in connection with this Agreement and for that purpose irrevocably submit to the non-exclusive jurisdiction of such courts.

(iv) Jurisdiction. The submission to the jurisdiction of the courts of Singapore referred to in Section XII.D(iii) hereof shall not (and shall not be construed so as to) limit the right of either party to take proceedings against the other party in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdiction preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

(v) Service of Process. Any such arbitration or legal proceedings shall be deemed to be sufficiently and effectively served on the Parties if served at their registered office.