

## Electric Media Sales Terms and Conditions

**By placing an advertisement within the Electric Media Sales Network you are deemed to have accepted these Terms and Conditions. The following Terms and Conditions ("Advertising Terms and Conditions") are deemed to be incorporated into each advertising order accepted by Electric Media Sales.**

### 1. Definitions

In these Terms and Conditions the following terms shall have the meanings set out below:

“Electric Media Network” ; Any website represented by Electric Media Sales

“Insertion Order” means a purchase order between a seller of interactive advertising and a buyer (usually an advertiser or its agency);

“Impression” means a measurement of responses from a Web server to a page request from the user browser, which is filtered from robotic activity and error codes, and is recorded at a point as close as possible to opportunity to see the page by the user;

“Advertiser” means the company paying for the advertisement.

### 2. Terms of Payment

All Invoices are due for payment in full no later than 30 days from the date of the Invoice or on complete delivery of the campaign.

Any reference that the advertiser requires to have stated in the Electric Media Sales invoice must be supplied with the Insertion Order. Failure to do so will not be accepted as grounds for non payment of the invoice after it falls due for payment.

Any required changes to Insertion Orders will only be accepted by submission of a revised Insertion Order and will be subject to the terms set out below.

### 3. Positioning and License

3.1 The Advertiser hereby grants a world-wide non-exclusive, fully paid license to reproduce and display the advertisement (including all contents, trademarks and brand features contained therein) in accordance with the Insertion Order and these Advertising Terms and Conditions.

3.2 Except as otherwise expressly provided in the Insertion Order, positioning of advertisements within the Electric Media network or on any page is at the sole discretion of Electric Media Sales and its publishers, and Electric Media Sales will not be prohibited from also carrying advertisements for any product or business competitive to the product or business of the Advertiser.

3.3 Electric Media Sales does not warrant the date or dates of insertion of the advertisement(s) and does not warrant that the advertisement(s) will not be displayed after the end date specified. However, Electric Media Sales will at all times use reasonable efforts to comply with the Advertiser's wishes in these regards.

3.4 The Advertiser grants to Electric Media Sales the express right to reproduce throughout the world screen shots of all or part of any Electric Media publisher containing all or part of any of the advertising materials supplied by the

Advertiser to Electric Media Sales on or in any promotional or advertising material or campaign promoting or advertising the Electric Media Sales network

#### **4. Usage Statistics**

Notwithstanding the provisions of the Insertion Order, the Advertiser and Electric Media Sales will not be held liable for any claims relating to any usage statistics however supplied. The Advertiser acknowledges that delivery statistics provided by Electric Media Sales are the official, definitive measurements of any Electric Media Sales publisher performance on any delivery obligations provided in the Insertion Order. No other measurements or usage statistics (including those of the Advertiser or a third party ad server) will be accepted by Electric Media Sales or have bearing on this Agreement.

#### **5. Renewal**

Except as expressly set out in the Insertion Order, any renewal of the Insertion Order and acceptance of any additional advertising order will be at Electric Media Sale's sole discretion. The rates applicable to such renewal period (if any) are subject to change by Electric Media Sales from time to time in its absolute discretion.

#### **6. No Assignment or Resale of Ad Space**

The Advertiser may not resell, assign or transfer any of its rights hereunder, and any attempt to resell, assign or transfer such rights will entitle Electric Media Sales to terminate this contract immediately, without liability on the part of Electric Media Sales.

#### **7. Limitation of Liability**

7.1 If Electric Media Sales fails to publish any advertisement or deliver the number of impressions as provided in the Insertion Order (or in the event of any other failure, technical or otherwise, of such advertisement to appear as provided in the Insertion Order), Electric Media Sale's liability will be limited (at the option of Electric Media Sales) to either: (a) publishing the advertisement (or a replacement advertisement if provided by the Advertiser) as soon as is reasonably practicable in the period following the period during which the advertisement was scheduled to run and for such time as is necessary to generate a number of substitute impressions equal to the shortfall, or (b) refund to the Advertiser that proportion of the amounts paid which relate to those advertisements and/or impressions which were not provided or, if the relevant amounts were not paid by the Advertiser, agree that such amounts will not be due or payable.

7.2 In no event will Electric Media Sales be responsible for any indirect, consequential, special or economic loss of any kind including without limitation loss of profits, business, contracts, revenues, goodwill, production and anticipated savings arising from any failure to publish in a timely manner or at all any advertisement in accordance with the Insertion Order.

7.3 Without limiting the foregoing, Electric Media Sales will have no liability for any failure or delay resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labour or material shortage, transportation interruption of any kind, work slowdown or any other condition beyond the control of Electric Media Sales affecting production or delivery in any manner.

7.4 Electric Media Sales does not limit or exclude liability for death or personal injury caused by its negligence.

7.5 Each of the provisions of this clause 7 are to be construed separately and independently of the other, and if any provision of this clause 7 (or any other clause herein) is found by any court or other judicial body of competent jurisdiction to be invalid or unenforceable, the exemption of such provision will not affect the other provisions of this clause 7 (or any other clause herein) which will remain in full force and effect.

## **8. Advertisers Representations; Indemnification.**

8.1 The Advertiser warrants and represents to Electric Media Sales that:

8.1.1 It has the right to publish all of the contents of the advertisements, and can grant to Electric Media Sales such right, and that such publication will not: (a) infringe any rights of any third party including, without limitation, intellectual property rights and rights of privacy, and (b) violate any applicable law or regulation.

8.1.2 The advertisements do not contain anything which is defamatory, obscene, false or misleading.

8.1.3 It has complied with the codes of practice issued by the Advertising Standards Authority for Ireland in respect of electronic and online advertising and all other relevant industry codes of practice.

8.1.4 The advertisement submitted pursuant to the Insertion Order either: (a) does not constitute an investment advertisement within the meaning of the Financial Services Act 1986 ("the Act") or other applicable law, or (b) has been approved by an "authorised person" within the meaning of the Act or is otherwise permitted under the Act and the Advertiser has expressly notified Electric Media Sales in writing of this.

8.2 The Advertiser agrees to indemnify and keep indemnified Electric Media Sales and hold Electric Media Sales harmless against any and all expenses, damages and losses of any kind (including reasonable legal fees and costs) incurred by Electric Media Sales in connection with any claims actual or threatened, of any kind (including, without limitation, any claim of trademark or copyright infringement, libel, defamation, breach of confidentiality, breach of any statutory or regulatory duty, false or misleading advertising or sales practices) arising from the advertisement and /or any material (of the Advertiser or otherwise) to which users can link through the advertisement.

8.3 The Advertiser agrees to verify and approve that the campaign specifications as detailed on the insertion order are correctly stated. Failure to sign and return the insertion order will be deemed as acceptance of the campaign specification as stated on the insertion order. Campaign specifications include the campaign start and end date; the creative size and format; the CPM (cost per mille) and number of impressions to be delivered; targeting details.

## **9. Provision of Advertising Materials**

The Advertiser will provide all materials for the advertisement (including GIF or JPEG files), in accordance with Electric Media Sales's practices and policies in effect from time to time, including (without limitation) the manner of transmission to Electric Media Sales, the lead-time prior to publication of the advertisement and such technical specifications as Electric Media Sales may require from time to time. Electric Media Sales will not be required to publish any advertisement that has not been received in accordance with such policies and practices and reserves the right to charge the Advertiser, at the rate specified in the Insertion Order, for inventory held by Electric Media Sales pending receipt of acceptable materials from the Advertiser which are past due.

## **10. Right to Reject Advertisement**

All contents of advertisements on the Electric Media Sales network are subject to approval and clearance procedures of individual publishers. Electric Media Sales does not undertake to review the contents of any advertisements and any such review of and/or approval by Electric Media Sales will not be deemed to constitute an acceptance by Electric Media Sales that such advertisement is provided in accordance with these Advertising Terms and Conditions nor will it constitute a waiver of Electric Media Sales's rights hereunder. Electric Media Sales reserves the right at any time in its absolute discretion to:

9.1 Reject or cancel any advertisement, Insertion Order, URL link, space reservation or position commitment; or

9.2 Remove any advertisement from any of the Electric Media Sales publishers.

## **11. Cancellations and Construction**

The Advertiser cannot cancel the Insertion Order. No conditions other than those set forth in the Insertion Order or these Advertising Terms and Conditions will be binding any publisher represented by Electric Media Sales unless expressly agreed to in writing by an authorised representative of Electric Media Sales. In the event of any inconsistency between the Insertion Order and these Advertising Terms and Conditions, these Advertising Terms and Conditions will prevail.

## **12. Confidentiality and Public Announcements**

12.1 The provisions of the Insertion Order and all communications passing between the Advertiser and Electric Media Sales are confidential and must not be disclosed to any third party except: (a) by the Advertiser to its qualified accountants or legal advisers, (b) by Electric Media Sales to its qualified accountants or legal advisers, or (c) as otherwise agreed by the parties in writing or as otherwise required by law.

12.2 If the parties have executed a non-disclosure agreement prior to the date of this Agreement ("Non-Disclosure Agreement"), then: (a) the Non-Disclosure Agreement is hereby incorporated into this Advertising Terms and Conditions by reference whether or not it is attached to the Insertion Order, and (b) each party must comply with its obligations in the Non-Disclosure Agreement.

## **13. Miscellaneous**

These Advertising Terms and Conditions, together with the Insertion Order (i) will be governed by and construed in accordance with, the laws of Ireland, and the parties submit to the non-exclusive jurisdiction of the Irish courts; and (ii) constitute the complete and entire expression of the agreement between the parties, and supersede all other prior understandings, commitments, agreements and (unless made fraudulently) representations, whether written or oral between the parties. Clauses 6, 7, 11 and 12 will survive any expiry or termination of these Advertising Terms & Conditions.