

TERMS AND CONDITIONS FOR ADVERTISERS

Last updated: **February 7, 2005**

This is an agreement for services between Adconion and the person or entity that completes and submits a Adconion Advertiser or Agency request form (the "Advertiser") or accepts the Advertiser Agreement via other contracts that reference the agreement.

Adconion operates, maintains, and administers an Internet advertising network (the "Network"), comprised of advertising space provided by various independent Internet sites and desktop applications, which is sold to advertisers.

Advertisers must provide Adconion with complete, accurate and up-to-date information. Advertisers may not assume an identity other than their own when entering into this agreement with Adconion. Advertisers must notify Adconion of any changes to submitted information within three (3) business days of the change. Individuals must be 18 years of age or older to advertise with Adconion. Advertisers may not advertise products or services of a company for which they are not a legally authorized representative. Advertiser is solely responsible for any changes, debits, credits, authorized or unauthorized activity, and any other use of their Adconion advertising account, including use and activity by authorized agents of your company, and unauthorized use by those who have obtained your account information in any way whatsoever. Adconion reserves the right to terminate the account of any Advertiser at any time without prior notice, and/or pursue legal action in the event of system abuse, fraud, or any type of activity deemed inappropriate by Adconion. Advertiser agrees not to display any content on their advertising creative or landing page that is defamatory, libelous, pornographic, obscene, otherwise unlawful, or that infringes upon any party's intellectual property or other proprietary rights. Exclusively Adconion will determine fitness of creative and landing pages.

Your agreement to the terms of this advertiser registration form is signified when you complete and submit an advertiser request form or sign a contract or insertion order that states, "I agree that I have read and reviewed the terms and conditions, understand them completely, and have the authority to enter into such an agreement." You may not advertise with Adconion unless you agree to the terms of this Advertiser Agreement.

Adconion will be the sole arbiter in determining the number of impressions, clicks, actions, or other applicable metric, delivered, shown, produced, clicked on, or viewed.

Adconion will be solely responsible for determining charges to the Advertiser's account.

Adconion reserves the right to immediately terminate your rights under this Advertiser Agreement with or without investigation or inquiry should Adconion have reason to believe that the Advertiser has violated this Advertiser Agreement. The Company may at any time elect to change and/or delete portions of this Advertiser Agreement with written notice to the Advertiser.

The failure of either party to this Agreement to object to or to take action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future wrongful conduct, violation or breach.

Advertiser agrees not to resell, delegate, assign, or otherwise transfer its rights or obligations under this agreement without the written authorization from Adconion.

Adconion agrees to indemnify, defend and hold harmless Advertiser and its officers, directors, agents, affiliates and employees from and against all claims, actions, liabilities, losses, expenses, damages and costs (including, without limitation, reasonably attorney's fees and costs) that may at any time be incurred by any of them by reason of any claims, suits or proceedings arising out of any material breach of any duty, representation or warranty by Adconion under this Agreement. This section shall survive completion, cancellation, or termination of the Agreement.

Advertiser agrees to indemnify, defend and hold harmless Adconion and its officers, directors, agents, affiliates and employees from and against all claims, actions, liabilities, losses, expenses, damages and costs (including, without limitation, reasonably attorney's fees and costs) that may at any time be incurred by any of them by reason of any claims, suits or proceedings arising out of the content of the Advertiser's website, the business practices of the Advertiser, and any material breach of any duty, representation or warranty by Advertiser under this Agreement. This section shall survive completion, cancellation, or termination of the Agreement.

Charges to the Advertiser's account believed by the Advertiser to have been made in error must be disputed, in writing, within thirty (30) days of the disputed charge being made. Adconion will be the sole and final arbiter in determining the validity of claims.

All public announcements and/or press releases related Adconion must have advance written approval by Adconion.

If any provision of this agreement shall be held or made invalid or unenforceable for any reason, such invalidity shall not affect the remainder of the agreement, and the invalid or unenforceable provisions shall be replaced by a mutually acceptable provision, which being valid, legal or enforceable comes closest to the original intentions of the parties and has like economic effect.

This Advertiser Agreement shall be for the benefit of and be binding upon the parties to this Advertiser Agreement and their successors and assigns. In the event of any dispute arising out of this Agreement, the internal laws of the state of California shall govern. You agree to submit to the personal jurisdiction of the state and Federal courts located in California in the event of any legal proceeding arising out of this Agreement. You agree that the United Nations Convention on the International Sale of Goods shall not apply to any dispute arising out of or in connection with this User Agreement. You may assign no rights under this Agreement.