

TERMS AND CONDITIONS

1 The Parties

1.1 The parties to this agreement are digitalmark (a division of radmark Pty (Ltd) hereinafter referred to as "digitalmark") and the party whose details are fully set out on the Insertion Order as part of this agreement hereinafter referred to as the "Advertiser".

1.2 The Advertiser hereby acknowledges and agrees that the Advertiser will be responsible to fulfil or procure fulfilment of all its obligations as set out in this agreement and that the Advertiser will ultimately be liable to digitalmark for fulfilment of all of its obligations under this agreement.

1.3 Annexures, addendums or schedules to this agreement form an integral part hereof. If any provision in an annexure, addendum or schedule is in conflict with a provision(s) in this agreement, effect shall be given to the other provision(s) in this agreement.

2 Definitions

2.1 For the sake of convenience and clarity, the following words shall bear the meanings assigned to them below :

2.1.1 "Advertisement(s)" means any text, graphics, image, content or any other marketing or promotional material provided by the Advertiser to digitalmark for placement within digitalmarks' web properties as set out on the first page;

2.1.2 "Campaign(s)" means all of the advertisements that shall be placed within digitalmarks' web properties in accordance with the details set out in this agreement collectively;

2.1.3 "Insertion Order" means the document headed "Online Advertising Agreement" and/or "IO" stipulates the details of the Advertiser and the placement of the advertisements; and

2.1.4 "This agreement" means the first page, all additional numbered pages, the terms and conditions set out herein and any annexure, schedule or addendum attached hereto.

3 Placement of Advertisements

3.1 Material, image and/or content, required by digitalmark to give effect to this agreement, needs to be supplied to digitalmark, in such format as digitalmark may specify, at least 3 (three) working days prior to the campaign commencing. Digitalmark shall not be obliged to place any advertisement that does not satisfy its technical requirements with regards to advertising creative dimensions, file type and file size.

3.2 Digitalmark will provide Advertiser with reports on advertisements placed within digitalmarks' web properties as per Auto Campaign Frequency Reporting field specified on Insertion Order.

3.3 The placing of advertisements is subject to availability of inventory. Whilst every effort will be made to serve all advertisements as indicated in this agreement, strict compliance will not always be possible and digitalmark cannot be held liable for any advertisements not placed as set out in this agreement and/or any changes in the placement of advertisements.

3.4 Digitalmark reserves the right to :

3.4.1 Serve any advertising on digitalmarks' web properties, including (without being limited to) advertising relating to competing products and/or services;

3.4.2 Change the format, layout and/or look-and-feel of digitalmarks' web properties;

3.4.3 Include any link in the web pages within digitalmarks' web properties that digitalmark, in its sole discretion, deems appropriate;

3.4.4 Reject any advertisement that is improper, immoral or unlawful. The client will be duly informed of such decision and allowed 48 hours to rectify the advertisement, failing which the client will remain liable for the total campaign value whilst digitalmark will not be liable to serve any advertising on such campaign until the rectified material has been received.

3.4.5 Reject any campaigns and/or advertisements that are not appropriate to digitalmark's viewers, or in conflict with

digitalmarks' business interests. The client will be duly informed of such decision and the applicable campaign will be cancelled with immediate effect with no obligations to the client or digitalmark;

3.4.6 If material is not received timeously, digitalmark will allocate material on behalf of a charity organisation to flight until such time that material is received. The Advertiser will remain liable for full payment of the campaign.

4 Duration & Cancellation

4.1 This agreement shall come into effect on the date when it is counter signed by an authorized representative of digitalmark ("the effective date") and shall endure until the end date set out on the Insertion Order (unless otherwise agreed in writing), subject to the right of either party to terminate the agreement by means of twenty-eight (28) days prior written notice to such effect to the other party.

4.2 In the event of termination of this agreement for any reason whatsoever, digitalmark shall forthwith remove all advertisements that may appear on digitalmarks' web properties in terms of this agreement.

4.3 Cancellation by the Advertiser will only be effected through the submission of a written cancellation notice, which must reach digitalmark twenty-eight (28) days before the effective date of cancellation. The Advertiser shall remain liable for all advertisements placed until the effective date of cancellation. Should the Advertiser insist on a waiver of the cancellation notice period, i.e. immediate cancellation of the campaign, digitalmark will be entitled to hundred percent (100%) of the originally booked campaign value, i.e. the full Online Advertising Agreement value will be payable.

4.4 Please note that impressions are booked on a daily basis, therefore your invoice will reflect the billing per day, for the current month only.

5 Consideration

5.1 In consideration for the advertisements served in terms of this agreement, the Advertiser will pay digitalmark the amounts set out in this agreement

5.2 The amounts set out in this agreement are exclusive of VAT, but inclusive of agency commission, unless being explicitly reflected as being exclusive of agency commission.

5.3 Digitalmark shall provide the Advertiser with a monthly VAT invoice. The amounts set out in the VAT invoice will be payable within the agreed payment period.

5.4 Digitalmark shall be entitled to give the Advertiser reasonable written notice which may include an e-mail notification of any increase in any amount set out in this agreement.

5.5 Should the Advertiser fail to pay any amount to digitalmark by due date, digitalmark shall be entitled, in its discretion and without prejudice to any other rights which it may have in law, forthwith cancel this agreement or suspend performance of its obligations without notice to the Advertiser.

6 Intellectual Property Rights

6.1 The Advertiser hereby grant to digitalmark a worldwide, royalty free license to use the advertisement, Advertiser name, trademark, logo, brand name and/or domain name to the extent necessary to give effect to the provisions of this agreement.

6.2 The Advertiser hereby warrant that the Advertiser is, and at all relevant times will be, the lawful owner of the copyright of the advertisement and all the material and content provided by the Advertiser to the Web for the purposes hereof and hereby irrevocably and unconditionally indemnify digitalmark and agree to hold digitalmark harmless against any claim made by any person, howsoever arising from any infringement of copyright and/or infringement of any other intellectual property rights or other third party rights by the advertisements and/or any other material provided by the Advertiser to digitalmark.

6.3 The parties agree that, except where specifically provided otherwise in this agreement, no party shall obtain any rights of whatsoever nature in or to the intellectual property rights of the other party and that any intellectual property rights developed during the term of this agreement by digitalmark or by the parties acting jointly, shall vest exclusively in digitalmark.

6.4 The Advertiser will not be entitled to use any of digitalmark trademarks, logos, brand names, domain names or other marks without digitalmark's prior written approval.

7 Limitation of Liability

7.1 The Advertiser acknowledge that neither digitalmark nor its respective Publishers has no knowledge of, nor in any way contributes to, nor approves the advertisement and/or any other content provided to digitalmark or its respective Publishers in terms of this agreement and that certain kinds of advertisements, content and conduct may be offensive, unlawful, in breach of codes of conduct binding on digitalmark, violations of legislation, violations of the common law generally or violations of the requirements or rules of any regulatory authority and that certain kinds of advertisements, content and conduct may cause harm to the name, goodwill and reputation of digitalmark or its respective Publishers. The Advertiser therefore agrees that digitalmark or its respective Publishers may, without derogating from any other rights that it may have, terminate this agreement with immediate effect and without notice to the Advertiser, should digitalmark or its respective Publishers, in their sole discretion, be of the opinion that the Advertisers' advertisement and/or any of the content accessible via link from the advertisement or any conduct within the website accessible via a link from the advertisement is offensive, unlawful or harmful.

7.2 The Advertiser agrees that nothing that digitalmark does in the exercising of its rights or the performance of its obligations in terms of this agreement or in the carrying on of its business generally shall be construed as an assumption of responsibility or liability by digitalmark for the advertisement and/or the content accessible via a link from the advertisement and/or the conduct carried on the website accessible via a link from the advertisement.

7.3 The Advertiser hereby warrant to and in favour of digitalmark that the performance by digitalmark of its obligations under this agreement will not result in the breach of any applicable law or any third party rights and the Advertiser hereby irrevocably and unconditionally indemnify digitalmark and agree to hold digitalmark harmless from and against any loss, costs, damages and/or claims suffered or incurred by or instituted against digitalmark as a result of a breach of this warranty.

7.4 Nothing herein or that digitalmark does in performance of its obligations in terms hereof, shall be interpreted so as to give Advertiser any form of entitlement in respect of digitalmark's web properties, other than as provided for herein.

7.5 Notwithstanding any other provision under this agreement, neither party shall be liable to the other party for any indirect and/or consequential damages directly or indirectly resulting from (relating to) this agreement in any manner whatsoever.

8 Confidentiality

Notwithstanding termination of this agreement, the parties agree to treat all information, in whatever form and howsoever recorded, that may reasonably be argued to have commercial value and that a party receives from the other party as a result of this agreement ("confidential information"), as private and confidential and safeguard it accordingly. The parties furthermore agree not to use or disclose or divulge or copy or reproduce or publish or circulate or reverse engineer and/or decompile or otherwise transfer, whether directly or indirectly, any confidential information to any other person and shall take all such steps as may be reasonably required to prevent confidential information falling into the hands of unauthorised persons.

9 General

9.1 This document contains the entire agreement between the parties in respect of the subject matter hereof and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein and no alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by both parties.

9.2 No indulgence, leniency or extension of time that digitalmark may grant or show to the Advertiser, shall in any way prejudice or preclude digitalmark from exercising any of its rights in the future.

9.3 The Advertiser may not, in any manner whatsoever cede or assign any of Advertiser's rights or obligations under this agreement without digitalmark's prior written consent, which shall not be unreasonably withheld.

9.4 Either party may (without prejudice to any of its other rights which it may have in law), terminate this agreement at any time on notice to the other if the other party has committed a material breach of any of its obligations under this agreement and has failed to remedy such breach within fifteen (15) days of receiving notice requiring it to do so.

9.5 This agreement shall be subject to the laws of the Republic of South Africa and the parties submit to the jurisdiction of the South African courts and each party chooses the address set out in this agreement as its domicilium citandi et executandi ("domicilium") for the purposes of this agreement

9.6 This agreement may be executed in one or more counterparts all of which shall be considered to be one and the same agreement.