

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

These are the standard terms and conditions ('Standard Terms') entered into between Data Distribution & Marketing Pty Limited A.C.N. 150 515 941, authorised representative no. 420360 of Canstar Research Pty Limited AFSL 437917 ('DDM') and the Advertiser and/or Agency ('you').

### 1. Agreement

- 1.1 If DDM notifies you of acceptance of your insertion order, an agreement will be formed ('Agreement'), comprising
  - a. The insertion order signed or approved by you ('Insertion Order' or 'IO');
  - b. These Standard Terms; and
  - c. Any Schedules or Annexures that are attached to the Insertion Order.
- 1.2 In the event of any inconsistency, the terms of the Insertion Order will prevail over the Standard Terms.
- 1.3 This Agreement constitutes the entire agreement between the parties and replaces any previous discussions, communications or other documents concerning the supply of the Services.

### 2. Definitions

- 2.1 In this Agreement, the following definitions apply:
  - a. 'Advertisement' means the advertisement intended to be displayed on Canstar Websites or Advertiser's product link from Canstar Websites with the description and specifications contained in the columns headed 'Advertisement' in the IO and includes all associated materials (including any combination of text, links and images, whether in static or Widget format).
  - b. 'Advertiser' is the entity described as such in the IO, if applicable.
  - c. 'Agency' is the entity described as such in the IO, if applicable.
  - d. 'Business Day' means a day on which banks are open for business in Brisbane, Queensland, and excluding Saturdays, Sundays and gazette public holidays.
  - e. 'Business Hours' mean the hours between 9.00am and 5.00pm Brisbane time on any Business Day.
  - f. 'Canstar' means Canstar Pty Ltd ACN 053 646 165.
  - g. 'Canstar Websites' means websites owned or operated by Canstar, DDM, and websites of a Canstar distribution partner on whose website DDM is authorised to place advertising.
  - h. 'Change of Control' means either a) a change of 50% or more in the ownership of an entity; or b) a change in the composition of the board of directors (if the entity is a company);
  - i. 'Confidential Information' includes the terms and conditions of this Agreement and means all confidential, non-public or proprietary information relating to the business, corporate, legal and financial affairs, technology, know-how, processes, products, pricing and/or customers of a party, its related bodies corporate or its customers, whether written, oral or in electronic form and whether exchanged, disclosed or learnt before, on or after the date of this Agreement, but excludes information:
    - i. Which is in or becomes part of the public domain other than through breach of this Agreement or an obligation of confidence owed by one party to the other party; OR
    - ii. Which the party can prove by contemporaneous written documentation:
      - I) Was already known to it at the time of disclosure by the other party;
      - II) Was independently developed without use of Confidential Information of the other party; or
      - III) Was learned from a third party under no duty of confidence.
  - j. 'Cost Model' means any of the following as set out in the IO:
    - i. 'CPA' or 'Cost Per Acquisition' means the cost that is payable each time a unique User completes the required fields of the Advertiser's product application and submits that application to acquire or establish a new product.
    - ii. 'CPC' or 'Cost Per Click' means the cost that is payable each time a User clicks on the Advertisement and is taken to your Landing Page;
    - iii. 'CPL' or 'Cost Per Lead' means the cost that is payable each time a unique User submits to you personal details fields including their name and contact details on either your Widget Advertisement or a Canstar generated lead form, in relation to the product or service the subject of the Advertisement. A Lead will be invalid where: I) the name or contact details are obviously a fabrication of the true identity of the customer e.g. Mickey Mouse, Phone 5555 0000; or II) both of the following apply: the telephone number is disconnected and the email address is undeliverable.
    - iv. 'CPM' or 'Cost per thousand' means the cost that is payable for every thousand impressions of your Advertisement.
    - v. 'CPQ' or 'Cost per Quote' means the cost that is payable each time a User completes the required fields either on your Widget Advertisement or on your site via a link from the Advertisement to complete a quote.
    - vi. 'Fixed' or 'Sponsorship Cost' model has the fixed cost and Share of Voice as specified in the IO, which is not dependent upon User activity;

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

- vii. 'SOR' or 'Share of Revenue' represents the percentage of total revenue payable as a percent of the value of the completed sale as specified in the IO.
  - k. 'End Date' has the meaning given to it in the IO.
  - l. 'Fees' means the fees set out in the IO, based on the relevant Cost Model, which are exclusive of and include any other fees payable under this Agreement including but not limited to interest DDM may recover from you under clause 4. GST is not included in the Fees.
  - m. 'Initial Term' means the period that starts on the Start Date and ends on the End Date.
  - n. 'Force Majeure Event' means an event which occurs due to any contingency beyond a party's reasonable control, unless the event arose as a result of the party's failure to comply with its obligations under this Agreement.
  - o. 'Intellectual Property Rights' includes all present and future rights in relation to copyright, trade marks, designs, patents, trade, business names whether created before or after the date of this agreement and whether existing in Australia or otherwise.
  - p. 'Landing Page' means a single web page that appears in response to a User clicking on an Advertisement.
  - q. 'Services' means DDM's display of the Advertisement and/or transferal of Leads from Canstar Websites, as set out in the IO.
  - r. 'Share of Voice' means the percentage of time made available to the Advertiser for the Advertisement relative to other advertisers in the same ad position on the Canstar Website.
  - s. 'Start Date' has the meaning given to it in the IO.
  - t. 'User' means a user of the Canstar Websites who interacts with your Advertisement.
  - u. 'Widget' means an interactive display/banner that enables a User to insert information, and obtain a dynamic response from you.
- 2.2 In this Agreement unless the context otherwise requires:
- a. the singular includes the plural and vice versa;
  - b. a reference to 'a party' means a reference to a party to this Agreement;
  - c. a reference to any of the parties by their defined terms includes that party's executors, administrators or permitted assigns or, being a company, its successors or permitted assigns; and
  - d. clause headings are for reference purposes only.
- 3. Term and Services**
- 3.1 The term of this Agreement comprises the Initial Term and any Continuing Term ('Term').
- 3.2 The Initial Term of this Agreement starts on the Start Date and ends on the End Date ('Initial Term').
- 3.3 Unless either party provides the other party with written notice to the contrary at least 14 days prior to the end of the Initial Term, when the Initial Term ends, this Contract will automatically renew on a month to month basis ('Continuing Term').
- 3.4 During the Continuing Term, DDM may amend any term of the Agreement including any Fees stated in the IO, at any time by a minimum of 30 days written notice to you.
- 3.5 During the Continuing Term, either party may terminate this Agreement by giving 14 days' written notice to the other.
- 4. Payment**
- 4.1 You must pay DDM the fees based on the Cost Model ('Fees'). Fees will be billed at the rates set out in the IO plus GST.
- 4.2 You must pay the Fees within 14 days after the date of DDM's invoice. DDM currently invoices monthly but may alter the frequency of invoices or render an interim invoice.
- 4.3 You agree that notwithstanding actual performance under the relevant Cost Model, you agree to pay to DDM the Minimum Spend as set out in the IO, if applicable.
- 4.4 If you cause delays in breach of clause 5.1, which in the absolute discretion of DDM adversely affect the campaign length and/or delivery schedule, you will be liable for the full amount of DDM's estimate of Fees set out in the IO.
- 4.5 If you do not pay the Fees by the due date, DDM may do any of the following upon written notice to you:
- a. Terminate the Agreement;
  - b. Suspend provision of services to you;
  - c. Charge interest on the overdue amount at a rate equal to 2% above the NAB published rate for overdrafts of \$100,000 and over at the relevant time; and
  - d. Recover from you any costs DDM incurs in obtaining payment of its Fees.
- 4.6 You agree to pay all taxes, duties and other government charges payable in connection with the Agreement applicable at its date or in the future, including without limitation goods and services tax, other value added tax, sales tax, stamp duty but excluding taxes, duties and government charges assessed on the Fees.
- 5. Advertisement**

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

- 5.1 You must provide the Advertisement to DDM or any person nominated by us at least 2 Business Days before the Start Date, and in accordance with any reasonable requirement that we notify to you from time to time. DDM is under no obligation to display the Advertisement until you comply with this clause.
- 5.2 If you wish to make a change to the form of Advertisement, or the terms of this Agreement you must obtain DDM's prior written consent and a fee may be payable for the change.
- 5.3 If the Advertisement is a Widget, it must contain a hyperlink to Canstar's and the Advertiser's agreed terms of use, hosted on Canstar's website: <http://www.canstar.com.au/terms-of-use/>, and as updated and notified by DDM to you from time to time.
- 5.4 In the event that DDM reasonably believes that any campaign is underperforming, DDM may in its absolute discretion, change the placement of the Advertisement from that specified in the IO provided that it is displayed within a substantially equivalent-sized advertising unit and on a reasonably equivalent Canstar Website environment to that specified in the IO.
- 5.5 In the event that you notify DDM in writing of any errors in the Advertisement, DDM will correct the error in a reasonable timeframe.
- 5.6 In the event that you request during the Term that the Advertisement be temporarily removed and/or subsequently reinstated from the Canstar Website/s, we shall do as soon so as soon as is reasonably practicable after receiving written notice from you. No Fee reduction will apply during this period, unless the temporary removal was requested due to an error on the part of DDM.
- 6. Reporting and Tracking**
- 6.1 You are responsible to provide Canstar with monthly reporting ('Monthly Reporting Requirement') which calculates the Fees based on the Cost Model. The Monthly Reporting Requirement is to be completed in the format specified by Canstar.
- 6.2 At any time after giving you 14 days' prior written notice you, Canstar may conduct an audit of your records relating to the Monthly Reporting Requirement to verify the calculation of Fees, Leads and any other matter arising under or relating to this Agreement. In order to comply with this provision, you will only need to supply the data relating to your calculation of the Monthly Reporting Requirement. This right will continue for a period of twelve months following expiry or earlier termination of this Agreement.
- 6.3 If required by DDM, you must:
- insert tracking tags on your website or designated URLs, as applicable in order to accurately calculate the Fees (if applicable to the Cost Model); and
  - ensure that your privacy policy and relevant site terms and conditions authorise the use of those tags using the following or substantially similar words: *"We may use third-parties to serve ads on our website. These companies may employ cookies and action tags (also known as single pixel gifs or web beacons) to measure advertising effectiveness. Any information that these third parties collect via cookies and action tags is recorded on an anonymous basis."*
  - Include in your privacy policy a link to the following url, containing opt-out information: <http://www.networkadvertising.org/choices/>
- 6.4 You acknowledge and agree that DDM may insert its own pixel tracker into your Advertisement in order to monitor the Monthly Reporting Requirement.
- 7. Obligations**
- 7.1 Your Obligations**
- You must not provide an Advertisement which:
    - Displays any Canstar logo, trademark or any other Canstar representation;
    - Defames any person;
    - Contains any negligent misstatement, is misleading or deceptive, or likely to mislead or deceive;
    - Infringes the intellectual property rights of any person;
    - Is rated (or in the opinion of DDM or the relevant website owner would be rated) RC, X or R, or is unclassified, by the Classification Board under the Classification (Publications, Films and Computer Games) Act 1995;
    - In DDM's reasonable opinion, breaches or is likely to breach any applicable law, regulation or ASIC regulatory guide; or
    - Links to or frames a website that includes material specified in sub-paragraphs (i) – (vi) inclusive.
  - DDM may without prior consultation or notice to you, remove any Advertisement if DDM reasonably believes the publication of the Advertisement would be in breach of clause 7.1(a). If DDM removes the Advertisement under this clause, you will be liable for the full amount of DDM's estimate of Fees set out in the IO.
  - You represent and warrant to DDM that :
    - You are authorised to make available each Advertisement, its content and subject matter on the Canstar Website/s.

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

- ii. If required by law to do so, you hold an Australian Financial Services Licence and/or an Australian Credit License (as applicable) or that you hold an authorization under one of those, and that you will operate your business and deal with Users in accordance with the conditions of such license or authorisation.
- iii. All Advertisements you lodge for publication with DDM comply with relevant laws and regulations including the Privacy Act 1988 (Cth) ('Privacy Act'), any relevant guidelines issued by the Australian Securities Investment Commission, Australian Communication and Media Authority, and Communications Alliance Limited whether voluntary or not, and its publication will not give rise to any claims or liabilities against DDM, its officers, employees or agents.
- iv. Subject to clause 6.3, neither you (nor any research vendor that you engage to conduct any research or study) will insert any tag, code, cookie, pixel or other data tracking or collection device into the Advertisement without our express written permission.
- v. You will not use or redistribute to any third party without our written permission any information or reports we may supply to you other than for the purpose of evaluating the performance of our Services.

### 7.2 Our Obligations

During the term of this Agreement, DDM will use reasonable commercial endeavours to perform the Services accordance with the IO.

### 7.3 Exclusion of Warranties

- a. DDM makes no representation or warranty to you in relation to the number of visitors to the Canstar Websites or the number of impressions at your website or other designated url unless expressly set out in writing in the IO.
- b. Unless specified in the IO, DDM does not guarantee any minimum number of deliveries or loading of an Advertisement on a world wide web page, or use of your Widget, or such other delivery metric as DDM may advise, provided that we will charge you in accordance with the IO.
- c. Neither DDM nor any owner of a Canstar Website is responsible for errors or omissions in any Advertisement provided by you or on your behalf.

## 8. Intellectual Property

- 8.1 You retain all copyright and intellectual property in the Advertisement, and grant DDM a license to display the Advertisement on Canstar Websites on the terms and conditions of this Agreement.

## 9. Limitation of liability

- 9.1 Subject to clause 9.5, without limiting any of the provisions of this Agreement, you indemnify DDM, its officers, employees and agents to a maximum extent of \$500,000 against claims, losses, damages and expenditure, however caused (including by way of negligence) suffered by or against DDM arising out of the breach of this Agreement by you, your officers, employees, contractors or agents.
- 9.2 To the full extent allowable under statute, DDM:
  - a. Excludes all conditions and warranties implied into the Agreement;
  - b. Excludes consequential, special or indirect loss or damage (including, without limitation, loss of revenue, loss of profit and loss of opportunity);
  - c. Limits its liability for breach of any condition or warranty that we cannot exclude, to the greater of (at DDM's election):(i) Re-supplying the services; or (ii) Paying the cost of having the service re-supplied; and
  - d. Limits its liability in respect of any other claim in connection with this Agreement (whether based in Agreement, tort (including negligence) or statute) to the amount of fees paid by you under the Agreement.
- 9.3 DDM will not be liable to you for any losses, costs, expenses or damages suffered or incurred by you arising from DDM's failure to publish an Advertisement in accordance with your request.
- 9.4 Transmission of data over the internet may be subject to corruption, error, interruption and delay and DDM will not be liable to you for any breach of the Agreement or delay in its performance due to:
  - a. Any failure of the server hosting the Advertisements; or
  - b. Any failure by DDM to supply Services under the Agreement due to any of the following:
    - i. a Force Majeure Event;
    - ii. hacking, denial of service attacks, viruses or other defects, or unauthorized or illegal use of or interference with the internet based services used to display the Advertisements;
    - iii. a failure or malfunction in relation to equipment, software or power supply at your premises;
    - iv. an action by you, your employee, contractor, agent or a third party, including where the Advertisement is hosted by a third party;
    - v. a failure or malfunction of an internet connection whether at your or DDMs site; or
    - vi. scheduled maintenance by DDM of Canstar Websites.
- 9.5 The limitation of liability in clause 9.1 does not apply in respect of:
  - a. Personal injury, death or property damage;
  - b. Infringement of DDM's, Canstar or a third party's Intellectual Property Rights;

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

- c. Your breach of the Privacy Act;
  - d. Your breach of a warranty given under clause 7.1(c); or
  - e. Fraud.
- 9.6 You indemnify DDM, its officers, employees and agents with respect to the matters listed in clause 9.5 suffered by or against DDM arising out of the breach of this Agreement by you, your officers, employees, contractors or agents.
- 9.7 This clause survives termination or expiry of this Agreement.

### 10. Termination and Confidentiality

- 10.1 DDM may terminate the Agreement immediately upon giving you notice in writing, if any of the following occurs:
- a. DDM is unable for any reason to place the Advertisements as required by the Agreement;
  - b. You do not pay the Fees when due in breach of clause 4.2;
  - c. You otherwise breach the Agreement and fail to rectify the breach after DDM has given you 5 Business Days' notice requiring rectification;
  - d. You become or initiate proceedings towards doing any of the following; becoming insolvent, appointing a receiver or manager over your assets, entering into bankruptcy, administration, liquidation, receivership or composition with creditors;
  - e. You undergo a Change of Control without DDMs prior written consent.
- Termination of this Agreement for any reason does not relieve the parties of obligations and liabilities arising prior to the date of termination.

### 11. General

- 11.1 This Agreement can only be varied in writing signed by both parties, and will be governed by the laws of Queensland, Australia.
- 11.2 If any term of the Agreement becomes unenforceable at law, the validity and enforceability of the remainder will not be affected.
- 11.3 You are an independent contractor and will not represent yourself as being an agent of DDM or Canstar nor will you by virtue of this Agreement become an agent of DDM or Canstar.
- 11.4 You acknowledge that DDM's Financial Services Guide is available at [DDM FSG](#).

### 12. Confidentiality

- 12.1 A party must not use each other's Confidential Information or disclose each other's Confidential Information to third parties without prior written consent except:
- a. To the extent necessary to perform or enforce this Agreement;
  - b. To obtain legal advice in relation to matters arising out of this Agreement;
  - c. As authorised or required by law, or the Australian Securities Investment Commission; or
  - d. To comply with the rules of any stock exchange on which either party may be listed.
- 12.2 Each party must return the other party's Confidential Information upon request or termination of this Agreement, whichever is the earlier.
- 12.3 Each party must ensure that its employees and contractors comply with those obligations of confidentiality as if they were a party to this Agreement.
- 12.4 This clause survives termination or expiry of this Agreement for a period of 3 years.

### 13. Dispute Resolution

- 13.1 Where either party considers a dispute has arisen in connection with this Agreement, the following process must be followed:
- a. it must first give written notice of the particulars of the dispute to the other party. Within fourteen (14) days of receipt of such notification by the other party, a senior officer of each party with authority to settle the dispute ("Authorised Officer") must meet to negotiate to attempt to resolve the dispute.
  - b. If the Authorised Officers of the parties cannot resolve the dispute within fourteen (14) days of the meeting referred to in sub-clause a, either party may refer the dispute to mediation by a mediator appointed by the President of Law Society of Qld, or the President's nominee, on the terms of the Standard Mediation agreement approved by the Qld Law Society.
  - c. If the dispute is not resolved within two (2) days of the commencement of mediation, or within such other period as the parties may agree, either party may then, but not earlier, commence proceedings in any court of competent jurisdiction.
  - d. Notwithstanding the existence of a dispute each party shall continue to perform its obligations under this Agreement.
  - e. Nothing in this clause shall prevent a party from seeking urgent equitable relief before an appropriate court.

### 14. Notice

- 14.1 Notice will be deemed given:

## DDM'S STANDARD TERMS OF ONLINE ADVERTISING

- a. in the case of hand delivery, upon written acknowledgement of receipt by an officer or other duly authorised employee, agent or representative of the receiving party;
- b. in the case of posting, 3 days after dispatch;
- c. immediately in the case of facsimile transmission, upon completion and upon confirmation of transmission by the sender's facsimile machine of all pages of the notice;
- d. immediately in the case of an email transmission, unless the sender receives an 'undeliverable' notice.

Provided that in all cases if a form of notice is received on a non-Business Day or outside Business Hours it will be taken to be received on the next Business Day.

### **15. Agency Terms**

15.1 If you are an Agency, you represent and warrant to DDM:

- a. that you have written authorisation from the Advertiser to enter into this Agreement on the Advertiser's behalf; and
- b. that, if required by law to do so, the Advertiser holds an Australian Financial Services License and/or an Australian Credit License (jointly and severally 'Licence'), and will comply with all conditions of such licences and all applicable laws or regulations;
- c. that the content of the Advertisement has been provided by the Advertiser to the Agency for placement on the Canstar Websites;
- d. that the Advertiser indemnifies DDM and its related bodies corporate, their officers, employees and agents against all claims, losses, damages and expenditure (including legal costs on an indemnity basis) arising out of:
  - i. any breach by DDM and/or its related bodies corporate of any applicable law or regulation; and
  - ii. any administrative action, surveillance action or other action taken against DDM or one or more of its related bodies corporate, where such breach or action results from or is concerned with (in whole or part) the form or content of the Advertisement displayed on Canstar Websites in accordance with this Agreement; or information provided to Users generated on Canstar websites.
- e. that by your entering into this Agreement on its behalf, the Advertiser agrees to be bound by the terms of this Agreement including but not limited to paying DDM for Advertisements delivered pursuant to this Agreement.
- f. that if the Advertiser fails to pay the fees in accordance with this Agreement when due, that the Agency agrees to pay those fees within 14 days of invoice from DDM, together with any interest, costs and fees and taxes that DDM is entitled to charge the Advertiser under this Agreement.