

Advertiser Terms and Conditions

1. GENERAL

This Agreement, its addenda, and amendments (collectively "Agreement") constitutes the entire agreement between the parties, superseding all prior understandings, writings, proposals, representations or communications, oral or written and may only be modified by a written instrument executed by Client and an authorized representative of MyThings (US) Inc. ("Company"). Neither Client nor Company will be bound by any oral agreement or representation irrespective of by whom or when made. All notices shall be in writing and all notices and payments shall be sent to the recipient at its respective address shown on this Agreement. Neither party shall be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control. Client represents that it has the authority to enter into this Agreement and the funding necessary to pay for the services that are the subject of this Agreement. Client represents that it will provide Company necessary access to its personnel, appropriate documentation and records and facilities in order to timely perform the services that are the subject of this Agreement. Waiver of either party's breach of any provision of this Agreement shall not constitute a waiver of any other breach. Company may elect to continue performance notwithstanding such breach by Client but such performance shall not constitute a waiver of such breach nor otherwise limit Company's remedies. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and, if limiting any invalid or unenforceable provision would make it enforceable, such provision shall be deemed to be written and construed in such a manner as to make it enforceable to the maximum extent allowed by law. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors. This Agreement may not be assigned by Client except it may be assigned in connection with the sale or reorganization of the business to which it pertains. Any headings in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement. This Agreement shall not be construed more strictly against Company merely by virtue of the fact that the same has been prepared by Company or its counsel, it being recognized that Client has thoroughly read and reviewed the terms and provisions of this Agreement. The parties agree to execute such other documents as may be reasonably necessary to carry out the intent and purpose of this Agreement. Client agrees that it will be billed according to Company's (or other applicable publisher's) campaign data. All Company campaign data used for billing purposes shall be subject to verification by Client's data systems. Client shall submit any requests for credit or refund within 15 days of receipt of Company's invoice. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of New York, except for its conflicts of laws principles. The parties agree to the exclusive jurisdiction of the courts venued in New York County, New York for any legal action arising out of this Agreement or the performance of the obligations hereunder. No action, regardless of form or basis, arising out of transactions related to this Agreement may be brought by either party more than one year after the cause of action has accrued except that an action for nonpayment may be brought within two years after receipt of the last payment by Client.

2. PROHIBITED CONDUCT

Client has read and agrees to comply with Company's policy as attached hereto. Both parties further agree to comply with all applicable laws and regulations in its respective performance under this Agreement.

3. AUDIT

Either party may audit the other party's records relating to reported billable transactions at a mutually convenient time and place. If the audited party is found to have made an error in its favor of more than 10% of a monthly invoice, the audited party shall pay to party that conducted the audit all reasonable costs and fees associated with the audit. If the audit reveals underpayments or overpayments, the payment or refund shall be made within thirty (30) days of the discovery thereof.

4. WARRANTY

(a) Notwithstanding anything to the contrary, the services of the Company are provided "AS IS" without warranties of any kind, either express or implied. WITHOUT LIMITING THE FOREGOING, EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES NOT EXPRESSLY STATED HEREIN. IN NO EVENT SHALL THE EITHER PARTY BE RESPONSIBLE FOR ANY FACTORS AFFECTING PERFORMANCE UNDER THIS AGREEMENT WHICH ARE BEYOND ITS CONTROL INCLUDING, BUT NOT LIMITED TO, ANY FAILURE, DISRUPTION, DOWNTIME, INTERRUPTION OF SERVICE, DELAY, INACCURACIES, OR OTHER NONPERFORMANCE IN CONNECTION WITH THE SERVICES CONTEMPLATED BY THIS AGREEMENT. (b) If the Company fails for any reason to place any advertisement on the terms as stated in this Agreement, Company's sole obligation shall be to correct the failure by making reasonable efforts to run such advertisement on the terms or similar terms as contained herein. (c) EXCEPT AND TO THE EXTENT EXPRESSLY PROVIDED IN THIS PARAGRAPH, THERE ARE NO WARRANTIES, GUARANTEES, ESTIMATES OR OTHER INDUCEMENTS, EXPRESS, IMPLIED, OR STATUTORY AS TO THE PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT AND ALL WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. (d) Client shall be solely responsible for the selection, use, efficiency and suitability of the advertisement in the form provided by Client to Company.

5. LIMITATION OF LIABILITY

Except as provided in Article 6, Indemnification, (a) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, EXEMPLARY, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST DATA, COSTS OF COVER, OR ANY DAMAGES OR SUMS PAID TO THIRD PARTIES, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION OR THE

FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE. COMPANY'S LIABILITY TO CLIENT HEREUNDER, IF ANY, SHALL IN NO EVENT EXCEED THE TOTAL OF THE AMOUNTS PAID TO COMPANY PURSUANT TO THIS AGREEMENT; and (b) COMPANY PROVIDES THIRD PARTY MATERIALS, (DEFINED AS ALL COMPUTER SOFTWARE, OR ANY INTERNET BASED SERVICE WHICH IS LICENSED OR CONTRACTED FOR BY COMPANY OR CLIENT AND NOT OTHERWISE CREATED AND OWNED DIRECTLY BY COMPANY) ON AN "AS-IS" BASIS, AND THERE ARE NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF INFORMATIONAL CONTENT, OR FITNESS FOR CLIENT'S PURPOSE.

6. INDEMNIFICATION

Each party shall indemnify, defend and hold the other party (including the indemnified party's affiliates, employees and agents), harmless from and against any and all demands, judgments, penalties, liens, expenses, liabilities, damages, losses and claims, including reasonable attorney's fees, ("Losses") to the extent Losses are caused by the negligent actions of the indemnifying party, suffered or arising from: i) any breach by the indemnifying party of the provisions of this Agreement; ii) any claim arising out of the publishing, distribution, or transmission of any advertisement or the linkage of any advertisement to any other material, including but not limited to, any claim a) that advertisements, methods, or products infringe or misappropriate any patent, copyright, trade secret, intellectual property or other proprietary right of any third party;" b) concerning the inaccuracy of Client's advertisements; c) for product liability, defamation, libel, or false, unfair or deceptive advertising or sales practices; d) that the advertisement contains, or contains links to, improper or illegal content, and e) claim arising from the location or method in which the advertisement is transmitted.

7. FEES

(a) All charges and other amounts shall be due and payable upon receipt of invoice therefor. (b) Client shall pay a late payment charge of 1.5 percent per month, or the maximum rate permitted by applicable law, whichever is less, on any unpaid amount for each calendar month or fraction thereof that any payments are in arrears. (c) Client shall pay any costs of collection incurred by Company (including reasonable attorney's fees and expenses) with respect to any overdue amounts hereunder. (d) Client shall pay all taxes based on or in any way measured by this Agreement, or any services related thereto, including any personal property taxes but excluding taxes based on Company's net income. If Client elects to challenge the applicability of any such taxes, Client shall pay the same to Company and Client may thereafter challenge such taxes and seek refund thereof.

8. TERMINATION

In the event of any breach of this Agreement by either party, the non-breaching party may (without limiting its other rights and remedies) immediately suspend performance under this Agreement until such breach has been cured to the non-breaching party's satisfaction.