

Facebook Advertising Terms and Conditions

These Facebook Advertising Terms and Conditions (these “**Terms and Conditions**” and together with any Insertion Orders executed by the parties, the “**Agreement**”) are entered into by and between Facebook, Inc., a Delaware corporation (“**Facebook**”) and the undersigned entity (“**Client**”).

Section 1. Insertion Orders

1.1 IOs. From time to time, the parties may mutually agree on insertion orders (“**Insertion Orders**” or “**IOs**”) under which Facebook will deliver advertisements or other content provided by Client (“**Client Ads**”) on websites or other properties (including www.facebook.com) operated by or on behalf of Facebook or its affiliates, including through any media, devices or networks now known or hereafter developed (the “**Service**”). Each IO will specify: (a) where on the Service the Client Ads will be delivered; (b) the amount and type of advertising inventory on the Service being purchased (e.g., impressions, clicks, duration or other desired actions or metrics with respect to Client Ads) (the “**Deliverables**”); (c) the fees and rates applicable to the Deliverables; (d) the maximum amount of money to be spent pursuant to the IO (if applicable); (e) the start and end dates of the applicable Client Ad campaign; and (f) the identity of and contact information of any third party tracking mechanism (“**3rd Party Client Ad Server**”) if applicable. Client may not use 3rd Party Client Ad Servers unless specified in the IO and then only in accordance with Facebook’s then-current policies for 3rd Party Client Ad Servers. Facebook will use commercially reasonable efforts to adhere to frequency caps specified on an IO. Except as otherwise specified in this [Section 1.1](#), Facebook will not be bound by conditions or instructions printed or appearing on IO forms submitted by or on behalf of Client, and in the event of any conflict or inconsistency between any IO and these Terms and Conditions, these Terms and Conditions will control, except to the extent such IO expressly supersedes or amends a specifically referenced section of these Terms and Conditions.

1.2 IO Effective Date and Modification. The effective date of each IO will be the earlier of: (a) execution thereof by both Facebook and Client; or (b) the display of the first Client Ad impression specified in an IO executed by Client. Subject to Section 3.2, modifications to any existing IO will not be binding unless made in a writing signed by both parties.

Section 2. Advertising Agencies.

In the event that the Client is an advertising agency or other entity representing an Advertiser (as defined in [Section 2.1](#)), including executing any IO or submitting advertisements to Facebook on behalf of an Advertiser, this [Section 2](#) shall apply to Client.

2.1 Advertiser Definition. As used herein, “**Advertiser**” means the individual or entity on whose behalf Client is placing Client Ads on the Service that has entered into an Advertiser Agreement (as defined in [Section 2.2\(b\)](#)).

2.2 Additional Representations and Warranties. Client represents, warrants and covenants that:

(a) it is the authorized agent of Advertiser and it has the legal authority to enter into this Agreement and any IO on behalf of the Advertiser, make all decisions, and take all actions relating to the Advertiser’s accounts (these rights “**Agency Rights**”);

(b) it has or will enter into a written agreement with Advertiser (i) that obtains Agency Rights; (ii) that binds the Advertiser to terms as protective of Facebook as is this Agreement and (iii) to which Facebook is an intended third party beneficiary with respect to Client Ads delivered on the Service (the written agreement between Advertiser and Client containing the requirements in this [Section 2.2\(b\)](#), the “**Advertiser Agreement**”);

(c) it will not, without Facebook’s prior written consent: (i) make any representation, guarantee, condition, or warranty concerning any Service, or that Client is an affiliate or partner of Facebook, (ii) make any commitments (for example, guarantees as to placement of ads) to an Advertiser or potential Advertiser beyond Facebook’s obligations under this Agreement, (iii) negotiate any terms or conditions related to the Service which are inconsistent with this Agreement, or (iv) engage in any telesales or telemarketing in connection with the Service; and (d) it will perform its duties pursuant to this Agreement in a professional manner consistent with the requirements established by Facebook.

2.3 Agency Agreement and Relationship Termination. Upon Facebook’s request, Client will immediately deliver to Facebook each applicable Advertiser Agreement. If Client’s relationship with an Advertiser terminates, Client agrees that Facebook may contract directly with such Advertiser to allow such Advertiser to continue to place Client Ads on the

Service and obtain information related to Client Ads run on its behalf, including account and performance history, and that Client shall no longer have access to such Advertiser's account.

2.4 Additional Liability. Without limiting any other provision of this Agreement, any acts or omissions by any Advertiser in violation of this Agreement shall be deemed a breach of this Agreement by Client, and Client will indemnify, defend, and hold Facebook harmless from and against all damages, liabilities, costs, and expenses that Facebook may incur as the result of such violation. However, Client acknowledges that Facebook may but shall in no event be obligated to directly contact any Advertiser and directly enforce the terms of such Advertiser Agreement, including if Facebook has not received payment for such Advertiser's account within 30 days from the date of the applicable payment due date.

Section 3. Client Ads and Deliverables

3.1 Placement of Client Ads. Subject to the terms of this Agreement, Facebook will deliver Client Ads in accordance with the terms of the applicable IO. To the extent that the size, placement, positioning or any other aspects of the presentation of any Client Ads are not specified in an IO, Facebook may determine any of the foregoing in its sole discretion. For Client Ads where Deliverables consist of placement for a specified period of time, Facebook may deliver such Deliverables as continuous placements for that period, or some other equivalent combination of duration and rotation (e.g., 1 week of persistent placement = 2 weeks of 50% rotation placements). Scheduling of delivery of any Client Ads is subject to availability and may not be continuous. Facebook will use commercially reasonable efforts to notify Client in advance of any inability to deliver Client Ads in accordance with the terms of the applicable IO.

3.2 Changes to IOs. As described in Section 1.2, an IO may only be amended by signed, written agreement of Client and Facebook; provided, however, that Facebook may, in its sole discretion, accept a written request from Client to change the following provisions of an IO without a formal amendment of the IO: (a) a reallocation of placements between types of advertising Deliverables, (b) a change to delivery dates of specific lines of Deliverables on the IO, and (c) a change in demographic targeting (each of the foregoing, a "**Limited Change**"). Client shall submit Limited Change requests by email. If Facebook agrees to such Limited Change, Facebook may indicate such agreement by implementing such Limited Change without further confirmation. Facebook may also propose a Limited Change to maximize performance of a particular Client Ad campaign, but will not implement such Limited Change without email confirmation from Client. Notwithstanding anything to the contrary in this Section 3.2, in no event shall a change to the overall start or end date of a Client Ad campaign or the total spend amount under a Client Ad campaign be deemed a Limited Change and shall only be accomplished through signed written amendment of the IO between Client and Facebook.

3.3 Facebook Technical Specifications. Within 5 days of the effective date of an IO, Facebook shall make available the applicable Facebook technical specifications for such Client Ads ("**Facebook Technical Specifications**"). Client will submit all applicable Client Ads in accordance with the applicable Facebook Technical Specifications. Facebook may modify the Facebook Technical Specifications from time to time and shall notify Client of any such modifications. If Client is unable to comply with any such modified Facebook Technical Specifications, Client may, as its sole and exclusive remedy, either: (a) suspend delivery of any affected Client Ads for a reasonable time in order to send compliant Client Ads to Facebook (in which event the end date for any campaign involving suspended Client Ads will be extended by a period equal to the period of the suspension) or (b) accept comparable replacement Client Ads as agreed upon by the Parties.

3.4 Client Ad Content. All content for Client Ads must be in compliance with the then-current version of Facebook's Advertising Guidelines (located at www.facebook.com/ad_guidelines.php), the Facebook Technical Specifications and any other applicable Facebook policies, including editorial, advertising, privacy, user experience, publicity and branding policies (collectively, the "**Facebook Guidelines**"). Each of the Facebook Guidelines is hereby incorporated by this reference. All content for Client Ads must be received at least 5 days in advance of the earliest Flight Date for any Deliverable on the applicable IO. Notwithstanding the foregoing, in the event Facebook has agreed to optimize the creative for any Client Ad ("**Ad Optimization**"), then Client will submit the necessary materials at least 5 days prior to the estimated flight dates for such optimization (as specified by Facebook). Client agrees that in connection with such Ad Optimization, Facebook may (a) rearrange Client- provided materials to create different versions of Client Ads, and (b) pause, reschedule or cancel delivery of impressions that are part of an Ad Optimization at any time. Changes to Client Ad content for text or standard graphical Client Ads must be received by Facebook at least 3 days in advance of requested change date; changes to content for all other Client Ads must be received by Facebook at least 5 days in advance of requested change date. Facebook will not be required to accept changes to Client Ad content more than once in any rolling 7 day period. Client shall not be relieved of its payment obligations under an IO for Client Ads not delivered due to delays by Client in delivery of Client Ads to Facebook. Client will be solely responsible for all fees associated with serving any "rich media" Client Ads.

3.5 Promotions. For any contest, sweepstakes, coupon or other promotion to be offered or promoted by or on behalf of Client on the Service ("**Promotion**"), Client (or a third party contracted by Client and for which Client is solely responsible) will perform and be solely responsible for such Promotion, including administration of the Promotion, ensuring that the Promotion complies with any and all applicable laws and regulations, setting and enforcing official rules and offer terms, collecting entries, drawing, selecting and notifying winners and timely procuring and fulfilling prizes, premiums or discounts that may be offered in connection with such Promotion (these and other similar obligations the "**Promotion Obligations**"). No approval by or assistance from Facebook in connection with a Promotion (including as may be specified in an IO or elsewhere) shall reduce or satisfy the Promotional Obligations, and Client shall remain solely responsible for the Promotion Obligations. Without limiting the foregoing, Facebook's review or approval of the official rules, offer terms or regulations for any Promotion shall not constitute a legal opinion as to the legal appropriateness, accuracy or adequacy of those rules or their manner of use, nor a waiver of Facebook's indemnity rights under this Agreement.

3.6 Sampling Engagement Advertising Unit. In the event Client purchases or utilizes Facebook's sampling engagement advertising unit ("**Sampling Unit**") to offer samples or giveaways of Products ("**Offer(s)**"), Client will be solely responsible for honoring and fulfilling all Offers accepted by users up to the maximum quantity identified on the applicable IO or, if a maximum quantity has not been identified on the applicable IO, all Offers accepted by users. As used herein, "**Product(s)**" means a product, item, or service of Client. Facebook will provide Client with the contact information of each user that accepts the Offer ("**Contact Information**"). At no cost to Facebook or users (directly or indirectly), Client will provide each such user with the applicable Product within thirty (30) days of the date on which Client receives the user's Contact Information from Facebook. As between the parties, Contact Information is the property of Facebook, and Facebook owns all right, title and interest in and to Contact Information. Client may use Contact Information solely for the purposes of fulfilling the applicable Offer in accordance with this Section 3.6. Without limiting the foregoing, Client shall: (i) keep Contact Information confidential; (ii) subject to the other conditions of this Section, handle Contact Information in accordance with all applicable privacy laws; (iii) not use Contact Information to contact or communicate with any user (except to fulfill Offers in accordance with this Section 3.6); (iv) not sell, rent, lease or otherwise disclose Contact Information to any third party; and (v) delete Contact Information from its system and destroy all copies of Contact Information once the applicable Offer has been fulfilled. Facebook is not responsible for any incomplete or inaccurate Contact Information. All Offers and Products are subject to Facebook's prior written approval, and only those Offers and Products that have been pre-approved by Facebook in writing may be offered to users. Products offered may not be substituted. Receipt by users of Products will not be conditioned on the payment of any fees (including, without limitation, shipping and handling fees) or taxes or the completion of any requirements (other than the provision of Contact Information to Facebook), and Client is responsible for payment of all fees and taxes in relation to the Product including, without limitation, shipping, delivery and importation. Without limiting the foregoing, Client will clearly and conspicuously disclose to users all terms, conditions and restrictions that are applicable to use of Products in accordance with applicable law but such terms, conditions and restrictions must not conflict with this Section and must not prevent use of the Product in a manner which a user would reasonably be expected to be able to use the Product based on the Offer. In no event will use by users of Products be subject to any recurring or automatic subscriptions or the payment of any fees or taxes. Client may target the Sampling Unit only to those users that are eligible for the Offer, and Client shall ensure that the Offer and Product is age appropriate for eligible users. Facebook makes no guarantees or commitments with respect to the number of Offers accepted. Client will ensure that the Offer, Product and delivery of the Product complies with any and all applicable laws, rules and regulations. Without limiting the foregoing, Client shall disclose within the Offer all information about Client's identity as required by and in accordance with applicable law. No approval by or assistance from Facebook in connection with an Offer (including as may be specified in an IO or elsewhere) shall reduce or satisfy the obligations of Client in relation to the Offer. Client shall ensure that all representations made in relation to the Product or Offer are accurate and must not make any false or misleading or deceptive statements. Without limiting the foregoing, Facebook's review or approval of Products, the Offer, or the Offer terms, conditions, or restrictions shall not constitute a legal opinion as to the legal appropriateness, accuracy or adequacy of the Products, the Offer, or the Offer terms, conditions, or restrictions, or their manner of use, nor a waiver of Facebook's indemnity rights under this Agreement.

3.7 Delivery Statistics. All figures relating to all Deliverables as determined by Facebook in accordance with its standard tracking methodologies will govern; provided, however that if Client is using a 3rd Party Client Ad Server, figures relating to any Deliverables that are impressions provided by Client from such 3rd Party Client Ad Server will govern unless such figures are more than ten percent (10%) lower than those determined by Facebook for the same period, in which case Facebook and Client will work in good faith to reconcile the discrepancy. If Client is using a 3rd Party Client Ad Server, Client will provide all figures that Facebook requests relating to the Deliverables from such 3rd Party Client Ad Server by

either (a) providing Facebook access to an online portal that provides such figures or (b) reporting such figures on a weekly basis. If Client fails to provide such figures as specified, Facebook may calculate payment and other figures relating to Deliverables using its own data. Facebook will monitor delivery of Client Ads, and will notify Client either electronically or in writing as soon as reasonably possible (and no later than two weeks before the end date of any IO unless the campaign was less than two weeks in length) if Facebook believes that an under-delivery of any Deliverables specified in an IO is likely.

3.8 Performance - Based and Bidded Advertising Orders. For all IOs where inventory is invoiced on a cost per click (“CPC”) or other performance-related basis or if the inventory is bidded or class 2 (collectively “Bidded”), the following additional terms shall apply: (a) the IO shall specify the agreed upon CPC, performance-based rate or bid that will apply to such IO and (b) the IO shall not guarantee any amount of clicks or impressions to be delivered. Facebook’s reported numbers for clicks shall be controlling for all CPC-based, other performance-based and Bidded Deliverables.

3.9 Failure to Deliver and Makegoods/Remedies. If Facebook fails to deliver any Deliverables in accordance with the terms of an IO, Client’s sole and exclusive remedy shall be limited to the following, which Facebook may choose in its sole discretion: (a) a refund of the charges representing the Client Ads that were undelivered or delivered to the wrong location, (b) placement of the Client Ads at a later time in a comparable position as determined by Facebook, and/or (c) an extension of the term of the IO with a refund representing any remaining undelivered Client Ads at the end of such extended term. Facebook will have no obligation to continue to deliver any such Client Ads after the term of the IO if the IO has been terminated by reason of Client’s breach pursuant to [Section 5](#). Facebook will not be required to remedy under-deliveries due to delays caused by Client. Client understands that all discounts are based on Client’s commitment to fulfilling the discount criteria indicated in the IO. If, for any reason, these criteria are not satisfied at the expiration or cancellation of the IO, Client will pay a short rate charge on all Client Ads run equal to the difference between the rate shown in the IO and the rate earned based on the applicable rate card without consideration of any discounts.

Section 4. Payments and Reporting

4.1 Payments. Any initial payment specified in any IO will be due and payable upon the effective date of such IO. For subsequent payments specified in any IO, unless otherwise specified in such IO, Facebook will invoice Client, at the address specified in the IO, based upon the calendar month in which activity occurred. Invoiced amounts will be due and payable thirty (30) days after Facebook’s delivery of the applicable invoice. Invoiced amounts and all other amounts payable by Client to Facebook are exclusive of any applicable tax, duty, levy, or other governmental charge, including but not limited to sales, use, value-added, withholding, and excise taxes (“**Taxes**”). Client is responsible for payment of all Taxes to the proper taxing or governmental authority. Interest will accrue on any past due amounts at the rate of the lesser of 1% per month or the lawful maximum. If Client’s payment method fails or Client’s account is past due, Facebook may collect past due amounts using other collection mechanisms, and Client agrees to pay all expenses associated with such collection, including reasonable attorneys’ fees. If Client pays any amounts due with a credit card and the issuer of the credit card seeks to recover from Facebook any amounts received by Facebook from the issuer, Client will immediately remit to Facebook all amounts necessary to comply with the issuer’s request and any costs and expenses incurred by Facebook in connection therewith.

4.2 Reporting. Within 2 business days of the effective date of any IO, Facebook will notify Client (either electronically or in writing) as to whether the Client Ads specified in the IO have begun delivery. Thereafter, Facebook will: (a) if so requested by Client in writing, make available to Client weekly interim reports (“**Interim Reports**”) setting forth Facebook’s then-current calculation of the Deliverables delivered during the period covered by the report and the anticipated payments due therefor; and (b) include with each invoice delivered pursuant to [Section 4.1](#) a report (a “**Monthly Report**”) setting forth Facebook’s final calculation of the Deliverables delivered during the period covered by the invoice and the payments due therefor. If Client is using a 3rd Party Client Ad Server, in generating Monthly Reports, Facebook will use the figures obtained from Client or otherwise agreed by the Parties pursuant to [Section 3.6](#). Client understands and agrees that Interim Reports are for Client’s convenience only and not for any other purpose, and Facebook makes no representation or warranty as to the accuracy of, and will not be bound by any information furnished in any, Interim Report. Accordingly all payments due hereunder shall be based solely on the information contained Monthly Reports, and only Monthly Reports will be deemed binding upon Facebook.

4.3 Cancelled IOs. If Client cancels any portion of an IO pursuant to [Section 5](#), then except to the extent otherwise specified in such IO, Client will not be charged for any Client Ads delivered under such IO after the effective date of such cancellation.

Section 5. Termination.

Either party may terminate this Agreement at any time upon 10 days written notice to the other party if the other party materially breaches this Agreement. In addition, Facebook may suspend delivery of Client Ads under any and all IOs immediately upon written notice to Client in the event of any failure by Client to make any payment hereunder when due (and, if Facebook elects to suspend delivery of any Client Ads, the end date specified in the applicable IO will be extended by a number of days equal to the period of suspension). Sections 2.4 (Additional Liability), 3.4 (Client Ad Content), 3.5 (Promotions), 3.9 (Failure to Deliver and Makegoods/Remedies), 4 (Payments and Reporting), 5 (Termination), 7.4 (Persistence), 9 (Confidentiality), 10 (Representations and Indemnification), 11 (Limitation of Liability), 13 (Disputes) and 14 (General) of these Terms and Conditions, together with any accrued but unpaid payment obligations of either party, will survive any expiration or termination of this Agreement.

Section 6. Facebook Control of Service

6.1 Service Design. Client acknowledges and agrees that Facebook is, and will at all times be, the “executive producer” of the Service, and will be responsible for the design, layout, look-and-feel, and maintenance of any and all aspects of the Service, including with respect to the display and performance of any Client Ads. Facebook may, in its sole discretion, redesign, delete or replace any pages, groups or other areas on which Client Ads will be displayed, even if such redesign, deletion or replacement results in the removal of Client Ads; provided, however, that if Client Ads are removed or not able to be served in connection with such change to the Service, as Client’s sole and exclusive remedy, Facebook will provide Client with Client Ads that are comparable in prominence to the affected Client Ads.

6.2 Rejection/Removal of Client Ads. Facebook may, in its sole discretion, reject or remove any Client Ad at any time, with or without notice, which (a) violates this Agreement, the content restrictions or any other provision of the Facebook Guidelines or the Facebook Technical Specifications or (b) which Facebook otherwise determines to be inappropriate for any reason in its sole discretion, whether or not such Client Ad was previously accepted. In such event, Facebook will notify Client of the reasons for such removal or rejection, and Client will promptly re-submit a Client Ad that addresses the issues specified by Facebook.

Section 7. Licenses.

7.1 License to Client Materials. Client hereby grants to Facebook (and its affiliates) a worldwide, non-exclusive, royalty-free, fully-paid license to (a) use, reproduce, perform, display, and distribute Client Ads and any related information provided by Client in connection with, on and through the Service (“Client Materials”) and (b) alter, modify, repurpose or create derivative works of Client Materials as necessary or desirable in order to serve advertising units and newsfeed content or other content on the Service. Client Ads include any copyrighted materials, and any trademarks, service marks, logos or other source or business identifiers included therein (“Trademarks”). Except as otherwise expressly set forth in this Agreement, the licenses granted under this [Section 7.1](#) shall be for the period of the applicable IO.

7.2 Publicity. During and after the term of this Agreement, Facebook may use Client Ads, name and logo, and may reference the type of advertising and flight dates for the advertising campaign delivered on behalf of the Client, in a factual and non-disparaging manner, for promotional or marketing purposes. In addition, Facebook may use performance data to discuss the results related to any Ad Optimization. Facebook may also reference any information publicly available about the Client on or off the Service.

7.3 Reservation of Rights. As between Facebook and Client, Client retains all rights in and to any Client Ads (including all Client Trademarks and all other related intellectual property rights embodied therein), and, upon the termination of this Agreement, all rights conveyed to Facebook hereunder with respect to Client Ads will cease and all such rights will revert to Client, except as otherwise provided herein. Client will not use, reproduce or display any Trademarks of Facebook in any manner without Facebook’s prior written consent.

7.4 Persistence. Notwithstanding anything to the contrary in this Agreement, Client acknowledges and agrees that Client Ads and other Trademarks that are used or displayed on the Service may continue to be used and displayed on the Service, even after Client has completed the ad campaign or terminated this Agreement or the applicable IO, as such Client Ads or Trademarks may have been incorporated into user profiles, news feeds or other features, and that such usage and display may continue indefinitely.

Section 8. No iFrames. Client agrees that it will not use any iframe on any profile page on the Service.

Section 9. Confidentiality

9.1 Confidential Information.

(a) “Confidential Information” means information disclosed by one party (“Discloser”) (whether verbally, in writing or otherwise, and whether of a business, technical or other nature) to the other party (“Recipient”) that has been designated as confidential or that, given the nature of the information and/or the circumstances surrounding its disclosure, should reasonably be considered confidential. Without limiting the foregoing, Confidential Information of Facebook shall include all Facebook technical specifications, Contact Information, information relating to Deliverables, and any information relating to Facebook products. Recipient shall maintain in confidence Confidential Information and not disclose Confidential Information to any third party (other than its employees, agents or contractors who have a need to know and who have agreed in writing to obligations as protective of Confidential Information as set forth herein), or use or accumulate such Confidential Information for any purpose other than performance of this Agreement, without Discloser’s prior written consent. For the avoidance of doubt, the terms of this Agreement will be deemed Confidential Information of both parties. Notwithstanding the foregoing: (i) the foregoing restrictions will not apply as to any information that was in the Recipient’s possession prior to disclosure thereof by Discloser, that is or subsequently becomes available to the general public other than through a breach by Recipient, or that is independently developed by Recipient without reference to Confidential Information; and (ii) Recipient will be permitted to disclose Confidential Information to the extent required by applicable law, regulation or legal process, provided that it provides prompt written notice to Discloser of any such disclosure and provides reasonable cooperation to the Discloser in connection with any attempt to contest or limit such disclosure.

(b) Recipient agrees and acknowledges that any breach of this Section 9 will cause irreparable harm to Discloser for which monetary damages will be inadequate. Accordingly, the aggrieved Discloser will be entitled to seek and, if granted, obtain and enforce injunctive or other equitable relief (in addition to any other remedies available to it) to remedy any threatened or actual breach of Section 9 by Recipient without the necessity of posting any bond or proving any harm or damages. In addition, Recipient agrees promptly to advise Discloser in writing of any unauthorized misappropriation, disclosure or use by any person of the Confidential Information which may come to its attention and to take all steps at its own expense reasonably requested by the Discloser to limit, stop or otherwise remedy such misappropriation, disclosure or use.

(c) Recipient’s obligation under this Section 9 as to any Confidential Information will continue for 5 years after its receipt of such information. Upon the Discloser’s request, Recipient will return, or, at Discloser’s option, destroy and certify destruction of, all Confidential Information (including any summaries or analyses thereof) in the Recipient’s possession.

9.2 Feedback. Client may from time to time provide ideas, suggestions or other feedback regarding the Service (including as to improvements or modifications thereto). Both parties agree that except as otherwise agreed by Facebook in a signed writing, such ideas, suggestions and other feedback is not Confidential Information of Client and that Facebook will be entitled to use, implement disclose and otherwise exploit such feedback in any manner, without restriction or duty to account.

9.3 Public Disclosures. Except as permitted by Section 7.2 and Section 9.1(a)(ii), neither party will issue any press releases, or otherwise make any public statements or communications regarding this Agreement or the relationship of the parties without the other party’s prior written consent.

Section 10. Representations and Indemnification

10.1 Representations and Warranties. Each party represents and warrants that: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it was organized; (b) the execution and delivery of this Agreement, and the performance of the transactions contemplated hereby, are within its corporate powers, and have been duly authorized by all necessary corporate action; and (c) its performance of this Agreement, and the other party’s exercise of its rights under this Agreement, will not result in a violation of any agreement or other obligation by which it is bound. Client further represents and warrants to Facebook that: (x) the Client Ads and Products shall not contain any material which violates the Facebook Guidelines or which is otherwise unlawful, defamatory or obscene, or which infringes or violates any third-party rights (including any intellectual property rights or privacy or publicity rights) or which may encourage a criminal offense or otherwise give rise to civil liability and (y) it will comply with all applicable laws and regulations in its performance of this Agreement, including the making of Offers (including all applicable (i) privacy and data protection laws and (ii) regulations and laws and regulations related to Promotions and/or Offers).

10.2 Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR

USAGE OF TRADE. FACEBOOK DOES NOT WARRANT THAT THE SERVICE OR ITS DELIVERY OF ADVERTISEMENTS HEREUNDER WILL BE ERROR-FREE, UNINTERRUPTED OR CONTINUOUS. WITHOUT LIMITING THE FOREGOING, (A) FACEBOOK SHALL HAVE NO LIABILITY FOR CLICK FRAUD OR OTHER IMPROPER ACTIONS, OR FOR INVALID CLICKS OR OTHER TECHNOLOGICAL ISSUES, EACH OF WHICH MAY AFFECT THE COST OF ADVERTISING AND (B) ANY AD OPTIMIZATION WILL BE "AS IS" AND FACEBOOK MAKES NO REPRESENTATION THAT THE AD OPTIMIZATION WILL IMPROVE THE APPLICABLE CAMPAIGN IN ANY WAY. THE FOREGOING DISCLAIMER OF WARRANTY IS A FUNDAMENTAL PART OF THE BASIS OF THE BARGAIN HEREUNDER, AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH DISCLAIMER.

10.3 Indemnification. Client will indemnify and hold harmless Facebook and its affiliates, and each of their officers, directors and employees (collectively, the "Indemnified Parties"), from and against any and all expenses, damages and losses of any kind (including, without limitation, reasonable legal fees and costs) incurred by any of the Indemnified Parties arising out of or in connection with any claim by a third party (a "Third Party Claim") against any of the Indemnified Parties resulting from: (a) any actual or alleged breach of Client's representations or warranties under Sections 10.1 and 2.2 (as applicable); (b) any Promotion, Offer, or Product including any claims for any delivery of, non-delivery of, defects in, use of or inability to use any Products or Promotion prizes, any violation by the Offer, Product, or Promotion of any applicable law, rule or regulation; (c) any use of Contact Information in violation of Section 3.6; (d) any Client Ad or other materials provided by Client or any material to which users can link, or any products or services made available to users, through the Client Ads. Facebook will notify Client promptly of any Third Party Claim for which it seeks indemnification and will permit Client to control the defense of such Third Party Claim with counsel chosen by Client; provided, that Client will not enter into any settlement that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing on the part of any Indemnified Party without Facebook's prior written consent.

Section 11. Limitation of Liability

EXCEPT TO THE EXTENT ARISING OUT OF A BREACH OF CONFIDENTIALITY, FACEBOOK NOT WILL BE LIABLE FOR LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, WHETHER ARISING IN CONTRACT, TORT, INCLUDING NEGLIGENCE, WARRANTY, STRICT LIABILITY OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL FACEBOOK'S TOTAL AGGREGATE LIABILITY TO CLIENT ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE AMOUNT PAID BY CLIENT TO FACEBOOK DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE DAY THE ACT OR OMISSION OCCURRED THAT GAVE RISE TO CLIENT'S CLAIM.

Section 12. Force Majeure

Excluding payment obligations, neither party will be liable for any delay or default in the performance of its obligations if such delay or default is caused by conditions beyond its reasonable control, including fire, flood, accident, earthquakes, telecommunications line failures, electrical outages, network failures or acts of God (collectively, "Force Majeure"). If performance is delayed by more than 30 days as a result of any Force Majeure, the non-delayed party will be entitled to terminate this Agreement by written notice delivered at any time prior to the other party's resumption of performance of this Agreement.

Section 13. Disputes.

The laws of the State of California, without regard to principles of conflict of laws, will govern any dispute related to this Agreement. For all such disputes, Client agrees to submit to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California.

Section 14. General. Except as specifically provided herein, if any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect and the court will construe any invalid or unenforceable portions in a manner that most closely reflects the effect and intent of the original language. If such construction is not possible, the provision will be severed from this Agreement and the rest of the Agreement shall remain in full force and effect. The failure by either party to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of such party to enforce such provision thereafter. Client may not assign or otherwise transfer (including by any reorganization, change of control, merger, acquisition or sale or transfer of all or part of its assets or business) Client's rights or obligations under this Agreement including any IO without the prior written permission of Facebook, and in no event will Facebook be obligated to serve Client Ads for any third party. Facebook may freely assign or otherwise transfer its rights and obligations under this Agreement including any IO, in whole or in part. Any purported

assignment or other transfer in violation of this provision shall be null and void. This Agreement will be binding upon, and inure to the benefit of the parties and their permitted respective successors and assigns. Each of Facebook's affiliates are express and intended third party beneficiaries of this Agreement and may enforce any of its terms and exercise any of the rights to the same extent as Facebook. Client and Facebook are independent contractors, and nothing in this Agreement is intended to or does create any type of joint venture, partnership or employer/employee relationship between Client and Facebook or its affiliates. Notices under this Agreement must be in writing and sent via facsimile, registered or certified mail or commercial courier to the parties at their respective addresses set forth herein, and in the case of Facebook, to the attention of its General Counsel. Whenever used in this Agreement, unless otherwise specified, the terms "includes", "including", "e.g.", "for example", "for instance" and other similar terms are deemed to include the term "without limitation" immediately thereafter. This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding on the parties hereto. All communications and notices to be made or given pursuant to this Agreement shall be in the English language. This Agreement (including any IOs, agreements, policies and other documents incorporated by reference herein), constitutes the entire agreement between Client and Facebook regarding the subject matter hereof and supersedes any and all prior or contemporaneous representation, understanding, agreement or communication between Client and Facebook, whether written or oral, including all terms and conditions on Facebook's rate cards or other published materials regarding such subject matter.