

## Media Services Terms and Conditions

### 1. GENERAL SERVICES TERMS.

- a. To the extent Partner and Expedia have entered into both an insertion order (“**IO**”) and a Media Services Agreement (“**MSA**”), the two collectively shall be herein referred to as the “**Agreement**”). To the extent the parties have only entered into an IO, references to “the Agreement” shall mean the IO. If there is any conflict between these Media Services Terms and Conditions and the terms and conditions of an IO, these Media Services Terms and Conditions shall control as they relate to the Media Services and Media Deliverables (as defined below).
- b. In consideration the fees identified in the applicable IO, Expedia will deliver the Media Deliverables and provide Partner the Media Services in accordance with the terms of the IO. “**Media Deliverables**” and “**Media Services**” means the custom content services and deliverables outlined in an MSA and/or IO.
- c. Partner acknowledges and agrees that due to the nature of media services, assessments relating to the Media Services are subjective; Expedia will perform Expedia’s duties under the Agreement in good faith and Partner will be obligated to make all payments due to Expedia under the Agreement, regardless of Partner’s subjective assessment of the Media Services .
- d. In addition, Partner acknowledges that Expedia will not be responsible for any failure to deliver or complete Media Services, or liable for any fees, costs, fines, interest, penalties, and expenses arising therefrom, to the extent caused by delays by Partner or other reasons outside of Expedia’s reasonable control; any new or additional Expedia services or time triggered as a result of a delay by Partner, change in content of the Partner brief, failure of Partner to provide approvals and/or information, requests by Partner for additional rounds of review, or failure of Partner to otherwise cooperate with Expedia will require an additional fee.

### 2. PARTNER RESPONSIBILITIES. Partner shall be responsible for:

- a. Working with Expedia in a timely manner to create and define the specific Media Services to be provided by Expedia for the applicable period;
- b. Reviewing all advertising materials to ensure that all claims (express and/or implied), representations, demonstrations, and/or other information (including relating to Partner’s, a Partner competitor’s, or another third party’s business, organization, promotions, products, and/or services, and/or disclaimer/disclosure content) that Partner approves for use (“**Advertising Claims**”) are accurate and not misleading, and that Media Deliverables approved by Partner for release otherwise comply with all laws, rules, regulations, and standards applicable to Partner and Partner’s industry;
- c. Confirming the accuracy, completeness and propriety of (i) materials, content, data or information that Partner provides to Expedia (directly or indirectly, such as via one of Partner’s other service providers), including names and logos of Partner and its third party partners’ and their respective products and services and (ii) Advertising Claims (collectively, “**Partner Materials**”), including Advertising Claims and providing to Expedia, upon request, substantiation for any Advertising Claims approved by Partner for use in the Media Services , as well as all applicable disclaimer/disclosure content;
- d. Providing any rights, licenses and permissions to use and otherwise clearing any Partner Materials; and
- e. Providing any and all authorizations necessary from Partner in order for Expedia to perform its Media Services hereunder.

### 3. TERMINATION AND DELAYS

- a. Partner expressly agrees that upon termination of the Agreement for any reason, Partner will pay Expedia any unpaid but earned fees, charges and expenses incurred by Expedia and previously approved by Partner in writing pursuant to the terms herein.

- b. Requests to pause and/or delay any campaign must be shared in advance. Expedia will work to action any such requests within a three (3) business day period. In the event of extended pauses or delays to the campaign, herein defined as fifteen (15) or more business days from the initial “pause or delay date”, Partner may begin to incur production-costs related to the delay, as shared by Expedia, and Expedia may release the reserved media inventory, if any.

### 4. OWNERSHIP AND PROPRIETARY RIGHTS.

- a. Ownership of Media Deliverables. The rights in the Media Deliverables, as well as other content and materials, and methods of doing business used by directors or employees of Expedia or its affiliates in the course of providing the Media Services to Partner which were in existence prior to the Agreement, as applicable, or were created outside the scope of the Agreement (collectively, “**Expedia Material**”), vest in Expedia, including the right to modify, transfer, license or otherwise alter any such Expedia Material, unless Expedia has agreed otherwise in writing. All modifications, improvements or enhancements to the Expedia Material shall be the property of Expedia. Subject to Partner’s payment of all undisputed amounts due hereunder, Expedia grants to Partner a non-exclusive, non-transferable, non-sublicensable, royalty free license to use Expedia Material for the purposes contemplated under the Agreement.
- b. Partner Materials. Notwithstanding anything to the contrary herein, it is understood and agreed that Partner retains all right, title and interest in and to the Partner Materials. To the extent Expedia incorporates any Partner Materials into any Media Deliverables created hereunder, Partner grants to Expedia a worldwide, royalty-free license to use, such Partner Materials solely to the extent incorporated into the Media Deliverables.
- c. Third Party Materials. In addition to the terms set forth in Expedia, Partner acknowledges that there may be limitations contained in agreements with third parties which limit the use and ownership of the third party materials utilized in material created for Partner, and the transfer of the rights set forth above shall be subject to such limitations (“**Third Party Limitations**”).
- d. Union. Without limiting the immediately foregoing, Partner acknowledges that the Media Services and Media Deliverables may fall within the scope of collective bargaining agreements with any union, guild and/or labor organization (e.g., Screen Actors Guild and the American Federation of Television and Radio Artists, American Federation of Musicians, etc.) (each a “**Guild**”) under which Partner or Expedia is or may be bound. Therefore, Partner shall strictly comply with the written instructions of Expedia or its representative, including but not limited to talent payroll service providers, to enable compliance with any royalty, use/reuse fee, other payment obligations or any other obligations under the union codes or contracts with Guilds having jurisdiction over the Media Deliverables or Media Services (“**Union Obligations**”).

### 5. PARTNER INFORMATION AND DATA USE

- a. Where Partner has provided information, representations, data, reports and/or other materials to Expedia for use in the Media Services, Partner warrants that it is entitled to do so. If Partner provides data to Expedia, such data must have been collected and processed in a manner that complies in all material respects with all applicable data privacy laws, self-regulatory principles, and Partner’s privacy policy and public statements. Partner shall, prior to Partner transferring data to Expedia, specifically identify the types of data and obtain written consent (email to suffice) from Expedia to transfer the data to Expedia. If Partner provides data collected online to Expedia, such data must have been collected using HTTP(s) cookies or technology disclosed in Partner’s

privacy policy that allows for the same level of transparency and control as is currently available for standard HTTP(s) cookies. Partner is advised that vendor terms and conditions commonly require Partner to post and maintain on its website a privacy policy that discloses its data collection and processing practices and complies with all applicable laws and self-regulatory requirements.

- b. Ad serving data (“**Ad Serving Data**”) is non-personally identifiable data regarding a campaign gathered during delivery of an ad pursuant to the insertion order (e.g., number of impressions, interactions, and header information). As between Partner and Expedia, the Ad Serving Data is the property of Expedia. Expedia or an authorized affiliate may collect and retain non-personally identifiable information about users of Partner’s and other third party websites and may use data derived from Partner’s use and Expedia’s or an authorized affiliate’s performance of the Media Services to compile aggregate statistics, metrics, and general trend data for the enhancement, optimization, and performance of Partner’s campaigns, provided, however, any use of such Ad Serving Data will preclude the identification of Partner, whether directly or indirectly.
- c. If Partner is permitted to collect any information from users of any website of Expedia’s through a pixel, tag, or other tracking method (“**Partner Tag**”) then (i) Partner shall provide Expedia with prior written notice of all information collected by the Partner Tag, (ii) Partner shall not, without Expedia’s prior written consent, (1) use information collected through the Partner Tag for any purpose other than delivering the Ads under the Agreement including but not limited to the delivery of ads for third parties; or (2) share any information collected through the Partner Tags with any third party, and (iii) Expedia may remove Partner Tags at any time in its sole discretion.

## 6. MEDIA PURCHASES

- a. Partner will be subject to any restrictions or other terms or obligations imposed on Expedia by the applicable media vendor (e.g., limitations on right to amend or cancel, remedies for failure to perform or errors in performance, and indemnification obligations). Media purchases are non-refundable and non-cancelable, unless otherwise set forth under the IO between Expedia and Partner and are permitted under the relevant agreement between Expedia and the media vendor.
- b. Expedia shall use reasonable care and skill in the selection and appointment of media owners and suppliers and Expedia shall use commercially reasonable efforts to guard against any loss to Partner as the result of the failure of such media or suppliers to properly execute their commitments, but Expedia will not be responsible for their failure.

## 7. BILLING

- a. For any fixed / non-reconcilable fees Expedia’s compensation, Expedia shall invoice Partner in accordance with the IO, and Partner shall pay each such invoice within thirty (30) days unless otherwise specified in the IO. If Partner fails to pay any invoice by the relevant due date, Expedia reserves the right to suspend the performance of its Media Services until it has received the overdue amount.
- b. If, following a failure by Partner to pay any invoice by the relevant due date, a late payment surcharge is imposed by a media owner or other third party against Expedia, Partner shall immediately pay Expedia for the amount of such surcharge, together with any interest charged by the supplier in respect of the overdue amount.
- c. Partner acknowledges that production costs may require partial or complete upfront payment and/or expedited payment. Expedia may invoice Partner in advance for any estimated production costs so that agreed payment deadlines can be met. Upon completion of each production job or project, Expedia will reconcile estimated production costs against actual production costs.

## 8. CANCELLATIONS AND AMENDMENTS

Partner may request Expedia to cancel or amend any and all plans, schedules or work in progress. Expedia shall take all reasonable steps to comply with any such request to the extent Expedia is able to do so within contractual obligations to media owners and other third parties. In the event of any such cancellation or amendment, Partner shall pay Expedia for any costs or expenses to which Expedia is committed, including without limitation any costs imposed on Expedia by third parties arising from the cancellation or amendment.

## 9. TERMINATION

In addition to the terms set forth in Section 8, and notwithstanding any provision of the Agreement to the contrary, Partner expressly agrees that upon termination of the Agreement for any reason, Partner will pay Expedia any unpaid but earned fees, charges, expenses, and other sums (including any monthly retainer), (regardless of the quantity of Media Services requested by Partner), incurred by Expedia and previously approved by Partner in writing pursuant to the Agreement. The foregoing will include all media ordered and media expenditures incurred by Expedia up to the date of termination, as well as any associated media buying commissions and fees while such ordered media runs even if after the effective date of termination. Further, any non-cancellable materials, services, contracts, reservations, arrangements, etc. Expedia has properly committed itself to purchase for Partner’s account, shall be paid for by Partner, in accordance with the provisions of the Agreement and Partner shall indemnify Expedia for the same. Expedia agrees to use commercially reasonable efforts to mitigate such liabilities promptly upon receipt of a notice of termination.

## 10. REPRESENTATIONS AND WARRANTIES

- a. Partner. Partner represents and warrants that: (i) it owns all right, title, and interest in, or have full and sufficient authority to use in the manner contemplated by the Agreement, any materials, data or any other Partner Materials furnished by or on behalf of Partner to Expedia and such use by Partner, Expedia or Expedia’s designees will not infringe any copyright, trademark, right of publicity or any other rights of any third party and such Partner Materials may be altered or arranged in any medium in Expedia’s sole discretion; (ii) it shall comply with the terms and conditions of any licensing or other agreements, any Union Obligations and any other Third Party Limitations that govern the use of material licensed or acquired from third parties obtained hereunder by Expedia in connection with the Agreement; and (iii) it has the full authority to enter into and perform the Agreement.
- b. Expedia. Expedia represents and warrants that: (i) it has the full authority to enter into and perform the Agreement and (ii) all Media Services provided directly by Expedia shall be performed in a professional manner.

## 11. INDEMNIFICATION; LIMITATION OF LIABILITY

- a. Partner Indemnification. Partner agrees to indemnify, hold harmless, defend, at Expedia’s option, Expedia, its parent, their affiliates, and each of their respective employees, officers, directors, shareholders, licensees, agents and contractors (collectively, the “**Expedia Indemnitees**”) from and against all liabilities, losses, damages or expenses, including reasonable attorneys’ fees and costs, Expedia Indemnitees may incur (“**Losses**”) as the result of any claim, suit or proceeding brought by a third party (“**Claim**”) arising out of or related to: (i) the nature or use of Partner’s products or services; (ii) Partner’s negligence or willful misconduct; (iii) Partner’s breach of any warranty or representation set forth in the Agreement; (iv) Advertising Claims or any other Partner Materials supplied to Expedia by or on behalf of Partner, or which Partner approves; (v) risks or restrictions that Expedia advises Partner of and Partner elects to proceed regardless; and/or (vi) Media Deliverables created hereunder that

Partner has either approved or used contrary to Third Party Limitations.

- b. Expedia Indemnification. Expedia will indemnify, defend and hold harmless Partner, its parent, their respective affiliates, and each of their respective employees, officers, directors, shareholders, licensees, agents and contractors (collectively, the “**Partner Indemnitees**”) against all Losses Partner Indemnitees may incur as the result of any Claim arising out of: (i) Expedia’s gross negligence or willful misconduct in the performance of its obligations under the Agreement; and/or (ii) Expedia’s breach of its representations or warranties under the Agreement.
- c. LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, OR LOST PROFITS, GOODWILL, SAVINGS, OR USE, OF ANY KIND OR NATURE ARISING OUT OF, OR RELATING TO THE PERFORMANCE, BREACH, OR TERMINATION OF THE AGREEMENT, WHETHER SUCH DAMAGE OR LOSS IS FORESEEABLE OR NOT, WHETHER THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF OR NOT, AND WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHERWISE. IN NO EVENT SHALL AGENCY’S LIABILITY ARISING OUT OF ANY MEDIA SERVICES OR MEDIA DELIVERABLES PROVIDED HEREUNDER EXCEED THE FEES PAID FOR THE PARTICULAR MEDIA SERVICES OR MEDIA DELIVERABLES OUT OF WHICH A CLAIM FOR LIABILITY AROSE.

## 12. GENERAL

- a. Amendment; Waiver. The Agreement contains the entire understanding between Expedia and Partner with respect to the subject matter hereof and may only be amended, modified, or supplemented by a written agreement signed by Expedia and Partner. No waiver by either Party of the breach of any term or condition of the Agreement will constitute a waiver of, or consent to, any subsequent breach of the same or any other term or condition of the Agreement. All waivers must be in writing.
- b. Confidentiality. In the course of the Parties’ business under the Agreement, a Party (the “**Receiving Party**”) may receive, learn, or otherwise have access to the other Party’s (the “**Disclosing Party**”) Confidential Information (defined below). The Parties agree to keep confidential and not to disclose or use for its own benefit or for the benefit of any third party (except as may be required for the performance of obligations under the Agreement or as may be required by law), any information, documents or materials which are identified by the Disclosing Party, at the time that they are made available, to be proprietary or confidential or that the Receiving Party ought reasonably to have known was confidential (including, without limitation, Expedia’s rates, fees, and the other terms of the

Agreement) (“**Confidential Information**”). The Parties agree that Confidential Information shall not include, nor shall the confidentiality obligations in the preceding sentence extend to any information, documents, or materials that: (i) become publicly available without breach of the Agreement, (ii) are received from a third party without restriction, (iii) are independently developed without reference to information received hereunder from the Disclosing Party, or (iv) the Receiving Party is required by law, regulation or court order to disclose confidential information provided that the receiving Party will promptly notify the Disclosing Party in writing prior to making any such disclosure in order to facilitate the Disclosing Party seeking a protective order or other appropriate remedy from the appropriate body at its own expense.

- c. Force Majeure. Neither Party will be subject to any liability to the other party for failure to meet any of its obligations (other than Partner’s payment obligations) under the Agreement in the event that such failure results from any cause or circumstance beyond its reasonable control, including any natural disaster, fire, accident, riot, act of government, terrorism, cyber-attack, shortage of materials or supplies, labor strife, or failure of transportation or communication systems; provided, however, that the party whose performance is affected by such cause or circumstance will notify the other Party as promptly as practicable and will use commercially reasonable efforts to resume its performance promptly after such cause or circumstance ceases to occur.
- d. Assignment. The Agreement may be assigned or transferred only upon the prior written consent of the other Party, except in connection with a sale or other transfer of all or substantially all of a Party’s shares or assets relating to the Media Services. Subject to the foregoing limitation on transferability and assignment, the Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Any assignment or transfer in violation of this provision will be void and of no effect.
- e. Choice of Law. The Agreement shall be governed by and shall be construed in accordance with the laws of the State of Washington. Any action related to or arising under the Agreement shall be brought exclusively in a court of competent jurisdiction located in Seattle, Washington, and each party expressly consents to the jurisdiction of those courts.
- f. Severability. If any provision of the Agreement is held by a court or agency of competent jurisdiction to be unenforceable, invalid or illegal, it shall be severed, and the remainder of the Agreement shall remain in full force and effect.
- g. Survival. Those provisions that may reasonably be expected to survive the termination or expiration of the Agreement, shall survive the termination or expiration thereof, including Sections 3-5 and 7-12.