

TERMS AND CONDITIONS FOR ADVERTISER

These Terms and Conditions for Advertisers (the "**Terms**"), together with Zippor's: Insertion Order if applicable ("**IO**"), Privacy Policy (available at <https://zippormedia.com/wp-content/uploads/2017/10/privacy.pdf>) (the "**Privacy Policy**"), the Data Processing Agreement ("**DPA**") (available at <https://zippormedia.com/wp-content/uploads/2020/08/DPA.pdf>) ("**DPA**") incorporated hereto by reference and collectively referred to as the "**Agreement**", are entered into and shall constitute a binding agreement by and between Zippor Media Ltd. and its affiliates ("**Zippor**") and the party executing the IO (including its affiliates, clients, agents or anyone else on its or on their behalf, all hereinafter collectively referred to as "**Advertiser**", and together with Zippor - the "**Parties**", as of the Effective Date as stated in the IO.

The Terms shall govern any and all future mutual agreed campaigns or engagements of the Advertiser, as an advertiser, with Zippor, unless agreed otherwise Zippor in writing, and in case of inconsistency between the provisions of these Terms to any other Advertiser's terms and conditions, the provisions of these Terms shall prevail.

1. The Engagement, Campaign(s)

- 1.1. Subject to Advertiser's full compliance with the terms of the Agreement, Zippor will promote the Advertiser's advertisements, products or services by transmitting images, text, videos and/or any other materials provided by the Advertiser ("**Creative**"), via Zippor's publishers network ("**Publishers**") in accordance with the campaign guidelines provided by the Advertiser and agreed to by Zippor (e.g. selected geographic campaign targets, excluded publisher categories etc.) (separately and jointly: the "**Services**").
- 1.2. Advertiser shall be solely responsible with respect to Creative and any other instructions provided to Zippor. Zippor shall not have any liability with respect to Creative and/or with respect to any other aspect of Advertiser's campaign instructions, including but not limited to the Creative's form or content, to errors in Creative contents, texts, graphics, position or placement, links, availability, interactivity or connectivity, infringement of any third party's intellectual property or other third party right resulting from or related to the Creative or promotion and/or publication thereof, or typographic errors of any kind.
- 1.3. Zippor reserves the right (but shall have no obligation) to reject, discontinue, or omit any Creative or any part thereof, at any time, including before or after Creative submission by Advertiser, or after having transmitted the Creative initially.
- 1.4. Without derogating from the above, Zippor shall in no way be obligated to promote any of Advertiser's Creative via any particular Publisher's website and/or mobile application ("**Media**"), and may refrain from or discontinue any such promotion on any Publisher's Media, at its sole discretion.
- 1.5. Except as otherwise agreed by the Parties in writing, Zippor may facilitate the promotion of advertiser's Creative via any of its Publishers' Media, at its sole discretion.
- 1.6. Each of Zippor's Publishers, including such Publisher's Media, is an independent contractor. Publisher(s) and Zippor are neither affiliates nor the agent or employee of one another, and neither is responsible in any way for the actions, omissions or performance (or lack thereof) of the other. Advertiser are advised that Publisher's website and any content therein may be subject to separate terms and conditions wholly independent of the Agreement. Zippor reserves the right to modify or cease the advertisement of any creative or part thereof to the extent required in order to comply with such separate terms and conditions.

2. **Reports**

- 2.1. During the Campaign (as indicated in the IO or as otherwise agreed by the Parties), Advertiser shall (i) provide Zippor with a daily statistics report which shall detail the number of actions transpired in the previous day, the expected gross revenues from such actions, and the Payments to be made by Advertiser to Zippor; or (ii) provide Zippor with real-time access and permission to the latest report located on Advertiser's systems (collectively, the "**Report**")
- 2.2. In the event of any discrepancy between any data included in the Report and any data independently tracked and/or procured by Zippor or any other third party on its behalf, the Parties shall cooperate in good faith in order to resolve such discrepancy. However, if in Zippor sole good faith discretion such discrepancy cannot be thus resolved, Zippor's numbers shall be final, binding and determinative for the purposes of this Agreement.

3. **Representations and Warranties**

- Advertiser hereby represents and warrants at all times during the Term (as defined in the IO) that: (i) there is no restriction, limitation, which prevents it to enter into the Agreement and fulfil its obligations under the Agreement;(ii) it has full authority to enter into this Agreement; (iii) it shall comply with all applicable laws, rules and governmental regulations; (iv) maintain any licenses, certifications, permits or authorizations required to it to lawfully operate its services, to use the Creative, to provide, offer, distribute, broadcast, transmit, and publicly perform the Creative, and allow Zippor and/or its authorized third parties and Publishers to do the same on behalf of Advertiser via the Services; (v) adhere to applicable professional standards, inter alia with regards to the provide, offer, distribute, broadcast, and publicly perform the Campaigns; it shall not infringe any third party right including any intellectual property rights, rights of publicity, privacy or data protection rights (vi) the Campaigns shall not include vulgar, pornographic or obscene content, nor such content harm in any way the goodwill or reputation of Zippor or disparage or bring Zippor and/or its Publishers into disrepute, including by possibly being perceived as indecent, illegal, misleading, harmful, abusive, harassing, liable, defamatory or containing or embodying other offensive materials; (vii) Advertiser may not authorize a third party to do any of the foregoing; and (viii) Advertiser shall be solely responsible for creating backup copies of any data and information relating to its use of Zippor's Services, at its sole expense.
- 3.1. Advertiser may not, directly or indirectly, deliver transmit or otherwise make available in connection with these Terms any virus, worm, Trojan Horse, time bomb, web bug, spyware, or any other computer code or program that may or is intended to damage or hijack the operation of any Zippor's or any other third party hardware, software, or equipment, or any other actually or potentially harmful, disruptive, or invasive code or component including code to monitor users without their prior consent.
 - 3.2. Advertiser shall not use the Media and/or Zippor's Services in any way or context that harms the goodwill or reputation of Zipor or that may disparage or bring Zippor or any of its Publishers into disrepute, including any use that contains and/or may be perceived as indecent, illegal, misleading, harmful, abusive, harassing, liable, defamatory or other offensive materials.

- 3.3. Advertiser acknowledges, warrants and agrees that all Creative has been accepted and published upon Advertiser's representation that the Advertiser is authorized and holds all consents and authorizations required to publish the entire contents and subject matter thereof and that all data regarding end-users gained pursuant to the execution of this Agreement, will be only used for legal purposes in accordance with the terms and any applicable laws.

4. **Payments**

- 4.1. Zippor will invoice Advertiser monthly in accordance with the Reports, and Advertiser will pay the total payment due to Zippor for the Services ("**Payment(s)**") within thirty (30) days from the end of each calendar month for which the Services were provided.
- 4.2. Unless otherwise agreed, all payments shall be made in US Dollars.
- 4.3. All ancillary fees (i.e. wire transfer fees, check clearing fees etc.) shall be borne by Advertiser.
- 4.4. Advertiser shall remain solely responsible and liable for the timely remittal of any and all Payments due to Zippor regardless of Advertiser's receipt of payment from its downstream advertisers.
- 4.5. If Advertiser fails to pay fees invoiced by Zippor by the payment due date, Zippor will have the right to suspend its Services to the Advertiser. Advertiser will pay any attorneys' fees and/or collection costs incurred by Zippor in collecting any amounts that are more than thirty (30) days past due under the Agreement.
- 4.6. The Parties hereby agree that Advertiser may execute, as its sole remedy, an offset or a deduction from any Payments Zippor is entitled to under the Agreement will be made in accordance with a detailed domain level report received solely and only from a known 3rd party fraud detection platform that will be agreed upon in advance and in writing by both Parties ("**Recognized Platform**"), reflecting fraudulent inventory which surpassed the threshold of 5%; provided, however, that the offset or deduction (if any) from the Payments will be limited to the specific inventory sources which reached or surpassed the Threshold, and only to the inventory that would be detected by the Recognized Platforms (i.e., not sampling and/or partial detection).
In any event, Advertiser (or any other third party on its behalf) may not use a case of non-collection (for any reason) as reason to delay or deduct a payment due to Zippor. For the avoidance of doubt, no adjustments, discounts, deductions or delays of any kind shall be made to Payments, including, but not limited to, as a result of non-collections from buyers, in light of any "direct publisher's inventory" (i.e. first hand inventory) requirements, whether made, or not, by any such buyers, without the prior written approval of the Zippor (in each and every case).
- 4.7. Notwithstanding the above, Advertiser will notify Zippor of the fraudulent traffic within 2 business day it was first reported on the server, and as a condition precedent to any offset or a deduction Advertiser will have a written proof that it's advertisers has actually deducted Advertiser payments due to such fraudulent traffic.
- 4.8. In all other cases, Advertiser must pay Zippor the full Payments according to the Agreement.

5. **Privacy and Data Protection**

- 5.1. Advertiser undertakes to comply with applicable Data Protection Laws, and to the extent that Advertiser collect and/or share any personal data (as this term is defined under Data Protection Laws) with Zippor, Advertiser hereby agree to the DPA terms and conditions, as incorporated herein by reference. As between the Parties the Advertiser shall be the Processor of the Zippor Data and, if applicable, shall comply with the DPA incorporated herein.

In these Terms, "**Data Protection Laws**" means any and/or all applicable domestic and foreign laws, rules, directives and regulations, on any local, provincial, state or deferral or national level, pertaining to data privacy, data security and/or the protection of personal data, including the Data Protection Directive 95/46/EC and the Privacy and Electronic Communications Directive 2002/58/EC (and respective local implementing laws) concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), including any amendments or replacements to them, including the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("**GDPR**").

6. Intellectual Property

- 6.1. Except for the Creative, Zippor's Services and any and all intellectual property rights pertaining thereto, including, but not limited to, inventions, patents and patent applications, trademarks, trade names, logos, copyrightable materials, graphics, text, images, designs (including the "look and feel" of Zippor), specifications, methods, procedures, information, know-how, algorithms, data, technical data, interactive features, source and object code, files, interface and trade secrets, whether or not registered or capable of being registered (collectively, "**Intellectual Property**"), are owned and/or licensed to Zippor and are subject to copyright and other applicable intellectual property rights under domestic laws, foreign laws and international conventions.
- 6.2. Advertiser may not adapt, sublicense, make any commercial use, copy, distribute, display, make available to the public, decompile, disassemble, reverse engineer, combine with other software, translate, modify or create derivative works of any material that is subject to the Zippor's Intellectual Property, either by itself or by anyone on its behalf, in any way or by any means, unless expressly permitted in these Terms.
- 6.3. Zippor has no obligation to provide the Advertiser or any other third party on its behalf, support, maintenance, upgrades, modifications, or new releases under these Terms.
- 6.4. Advertiser hereby grants Zippor a non-exclusive, transferable, sublicensable, royalty-free, worldwide license to use, publish, distribute, transmit, publicly perform and/or otherwise make available and present in any way and to any extent any Creative in connection with the Services and pursuant to this Agreement, and hereby waives all past, present and future claims relating to any moral rights, artists' rights, or any other similar rights worldwide in or to such Creative.
- 6.5. During the term of this Agreement, Advertiser agrees that Zippor may display Advertiser's logo and name, as provided by the Advertiser, on Zippor's website(s) and within its marketing materials Zippor may publicly refer to Advertiser, verbally and in writing, as a client of Zippor or of for the Services.

7. Confidentiality

- 7.1. As used herein, "**Confidential Information**" means all confidential and proprietary information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated or identified as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances surrounding the disclosure, including, but not limited to, the terms and conditions of these Terms (including pricing), business and marketing plans, technology and technical information, product designs, trade secrets and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party; (ii) was known to Receiving Party prior to its disclosure by Disclosing Party without restriction on use or disclosure; (iii) was independently developed by Receiving Party without breach of any obligation owed to Disclosing Party; or (iv) is rightfully received from a third party without restriction on use or disclosure.
- 7.2. Receiving Party shall not use Confidential Information of Disclosing Party for any purpose other than to perform its obligations or exercise its rights under these Terms. In addition, Receiving Party shall not disclose Confidential Information of Disclosing Party to any third party, except with Disclosing Party's prior written consent or as otherwise required by law or legal process. Notwithstanding the foregoing, each party may disclose the Confidential Information of the other party to its employees, consultants or other agents who have a bona fide need to know such Confidential Information; provided, that each such employee, consultant or agent is bound by confidentiality obligations at least as protective as those set forth herein. Receiving Party shall protect the confidentiality of Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care).
- 7.3. If Receiving Party is compelled by law or legal process to disclose Confidential Information of Disclosing Party, it shall provide Disclosing Party with prompt prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's expense, if Disclosing Party wishes to contest the disclosure. If
- 7.4. Upon any termination of these Terms, Receiving Party shall continue to maintain the confidentiality of the Disclosing Party's Confidential Information for seven (7) years and, upon request, return to the Disclosing Party or destroy (at the Disclosing Party's election) all materials containing such Confidential Information.

8. Limitation of Liabilities

- 8.1. Zippor does not warrant or make any representations regarding the use, the inability to use or operate, or the results of the use or operation of Zippor's services (or any part thereof).
- 8.2. Zippor's services (and any part thereof), including without limitation any content, data, products, marketing materials, reports and any information related thereto, are provided on an "as is" and "as available" basis, without any warranties of any kind, express or implied, including warranties of title or non-infringement or implied warranties of use, merchantability or fitness for a particular purpose or use. Zippor is not responsible for the results of Advertiser use of the Services nor its publication of Campaigns, including for any success or failure thereof.

- 8.3. Zippor does not warrant or represent that the services under the Agreement will be provided without interruptions or shall be error free, nor that the Publisher's Media or the services are of satisfactory quality including without limitations in regards to merchantability, fitness for a particular purpose, non-interference, non-infringement, usability, quality, availability, security, accuracy, suitability, completeness, truthfulness, effectiveness and/or reliability of the technology and/or the services, including of any content, data, results, or the information obtained or generated in connection with Advertiser's advertising Campaign or use of the Services. Zippor does not endorse any entity, product, service or creative used and/or transmitted in connection with the services, nor any advertisers or campaigns and that the use of the Services are at Advertiser's own risk.
- 8.4. Zippor shall not be liable for any indirect, incidental, consequential, special or punitive damages, including without limitation loss of or damage to data, loss of anticipated revenues or profits, work stoppage or impairment of other assets, whether in an action of contract, negligence or other tortious actions resulting from or arising out of the services (or any part thereof), use or inability to use the services, failure of the services to perform as represented or expected, loss of goodwill or profits, the performance or failure of Zippor to perform under the agreement, any other act or omission of Zippor by any other cause whatsoever, including damages arising from the conduct of the Advertiser, any publisher, and/or any end-users, or any Campaigns and/or materials used and/or made available through the services; or based upon breach of warranty, breach of contract, negligence, strict liability, or any other legal theory, regardless of whether or not foreseeable and whether or not it has been advised of the possibility of such damages. without derogating from the foregoing, the aggregate liability which may be imposed upon Zippor under this Agreement shall not the sum of payments actually received by Zippor under the Agreement in the two (2) months preceding the event giving rise to such claim of liability.
- 8.5. Parties hereby acknowledges and agrees that these limitations of liability are agreed allocations of risk constituting in part the consideration for Zippor's services to Advertiser, and such limitations will apply notwithstanding the failure of essential purpose of any limited remedy and even if Zippor has been advised of the possibility of such liabilities and/or damages.

9. Indemnification

- 9.1. Advertiser undertake to indemnify, defend and hold harmless, Zippor, its agents, officers, directors and employees from and against any claims, demands, suits or proceedings (“**Claims**”) brought against Zippor by a third party arising from: (a) breach of these Terms by Advertiser, (b) infringe any Intellectual Property right of Zippor or of any third party, (c) an allegation that the Advertiser infringes or violates the rights of any third party, is defamatory, libelous, obscene, deceptive, or violates any applicable law, (d) in case of using the data regarding end-users obtained pursuant to the execution of the Agreement, for illegal purposes or in contrary to any applicable laws, and (e) claim or suits for use of unauthorized content (including text, illustrations, representatives, or other copyrighted matter) contained in creative or in relation thereto or the unauthorized use of any person's name or photograph.
- 9.2. Advertiser shall pay Zippor any damages finally awarded against Zippor, settlements agreed to in accordance with these Terms, and reasonable costs and expenses (including reasonable attorneys' fees) directly attributable to such Claim.

- 9.3. The mentioned indemnity obligations are contingent on Zippor giving reasonable written notice of any Claim. Zippor will have sole control over the litigation or settlement of such Claim.

10. The Parties' Relationship

These Terms and the Agreement do not, and shall not be construed to create any partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Zippor and the Advertiser.

11. Changes to the Terms

Zippor may make changes and/or modifications to these Terms and/or the Agreement without prior notifying to Advertiser . Such changes take effect immediately after they are displayed at Zippor's web site and send by e-mail to the Advertiser. Advertiser shall be responsible for complying with any changes to the Terms within seven (7) calendar days from the date of notice. Failure of the Advertiser to terminate the Agreement within those seven (7) calendar days will constitute acceptance of such changes.

12. Term and Termination

12.1. The term of the Agreement will commence according to the respective IO (the "Term"). Each Party may terminate this Agreement at any time, with or without cause, by giving the other Party at least forty-eight (48) hours prior written notice. Advertiser may terminate any campaign with forty-eight (48) hours prior written notice and in such event, such termination will take effect only after the elapse of such prior notice.

12.2. In the event of a material breach by Advertiser, Zippor may terminate this Agreement immediately without notice or cure period, without liability to Zippor. Upon the expiration or termination of these Terms and/or the Agreement, with or without cause, all licenses granted hereunder shall immediately terminate, and Advertiser shall immediately cease any and all use of Zippor's services.

12.3. In the event of any termination, Advertiser shall remain liable for any Payment due under this Agreement for Services provided by Zippor and such obligation to pay shall survive any termination of this Agreement. Notwithstanding anything to the contrary in the foregoing, these Terms shall survive the termination of the IO, and shall govern any and all future mutually agreed campaigns, unless as agreed otherwise by Zippor in writing.

13. Governing Law and Jurisdiction

These Terms and the Agreement, will be governed and interpreted in accordance with the laws of the State of Israel without reference to conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms. Jurisdiction and venue for all disputes hereunder shall be in Tel Aviv, Israel and the Parties hereby expressly agree to such jurisdiction and venue.

14. Miscellaneous

14.1. The Agreement reflects the sole agreement between the Parties relating to the subject matter hereof and supersedes all prior understanding, writing, proposals, insertion orders, representations or communication, whether oral or written, of either Party.

14.2. If any provision of these Terms is found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these Terms and will not affect the validity and enforceability of any remaining provision.

14.3. Advertiser may not assign, sublicense or otherwise transfer any or all of its rights or obligations under these Terms without Zippor's prior express written consent.

14.4. No waiver by either Party of any breach or default hereunder will be deemed to be a waiver of any preceding or subsequent breach or default.

- 14.5. In the event of any inconsistency between the provisions of these Terms, and those set forth in Advertiser' IO and/or in the Advertiser' terms and conditions, the provisions of these Terms shall prevail. These Terms shall govern any and all future mutual agreed Campaigns, unless stipulated otherwise by Zippor in writing.