

GENERAL TERMS AND CONDITIONS FOR ADVERTISERS

These General Terms and Conditions for Advertisers (the “**Terms**”) together with the Insertion Order (“**IO**”) and the Privacy Policy available at: <https://www.velismedia.com/PDF/PrivacyPolicy.pdf> (“**Privacy Policy**”) and the Data Processing Agreement (“**DPA**”) available at: https://www.velismedia.com/PDF/DPA_advertisers.pdf (“**DPA**”) incorporated hereto by reference, are entered into and shall constitute a binding agreement by and between VelisMedia Ltd. and its affiliates (“**VelisMedia**”) and the party executing the IO (“**you**” or the “**Advertiser**”). Each a “**party**” and collectively, the “**parties**”.

These Terms, the IO, the Privacy Policy and the DPA shall be collectively referred to as the “**Agreement**”. In the event of any inconsistency between the provisions of these Terms, and those set forth in the IO, the provisions of the IO shall prevail. These Terms shall govern any and all future mutual agreed campaigns, unless as agreed otherwise by VelisMedia and you in writing. The Agreement shall be in effect as of the Effective Date stated in the IO.

Services

Subject to Advertiser’s (including its affiliates, clients, agents or anyone else on its or on their behalf, all hereinafter collectively referred to as “**Advertiser**”) full compliance with the terms of the Agreement, VelisMedia 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 VelisMedia’s publishers network (“**Publishers**”) in accordance with the campaign guidelines provided by the Advertiser and agreed to by VelisMedia (e.g. selected geographic campaign targets, excluded publisher categories etc.) (collectively - the “**Services**”).

Payments; Reports

VelisMedia will invoice Advertiser monthly in accordance with the Reports (as defined below) and the total payment due to VelisMedia for the Services (“**Payment(s)**”) must be paid by Advertiser within thirty (30) days from the end of each calendar month for which the Services were provided, and shall be made in US Dollars. All ancillary fees (i.e. wire transfer fees, check clearing fees etc.) shall be borne by Advertiser. Advertiser shall remain solely responsible and liable for the timely remittance of any and all Payments due to VelisMedia regardless of Advertiser’s receipt of payment from its downstream advertisers..

During the Campaign Flight indicated in the IO, Advertiser shall either (i) provide VelisMedia 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 VelisMedia; or (ii) provide VelisMedia with real-time access and permission to the latest Report located on Advertiser’s systems (collectively, the “**Report**”).

In the event of any discrepancy between any data included in the Report and any data independently tracked and/or procured by VelisMedia, the Parties shall cooperate in good faith in order to resolve such discrepancy. However, if in VelisMedia’s sole good faith discretion such discrepancy cannot be thus resolved, VelisMedia’s numbers shall be final, binding and determinative for the purposes of this Agreement.

Campaign Instructions

Advertiser shall be solely responsible with respect to Creative and any other instructions provided to VelisMedia. VelisMedia 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.

VelisMedia 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.

Without derogating from the above, VelisMedia shall in no way be obligated to promote any of Advertiser’s Creative via any particular Publisher’s website and/or mobile application (“**Digital Asset**”), and may refrain from or discontinue any such promotion on any Publisher’s Digital Asset, at its sole discretion.

VelisMedia Data

VelisMedia collects and processes certain personal data from the end user as detailed in the VelisMedia Privacy Policy available at: <https://www.velismedia.com/PDF/PrivacyPolicy.pdf> (“**VelisMedia Data**”). As between the parties the Advertiser shall be the Processor of the VelisMedia Data and, if applicable, shall comply with the DPA incorporated herein.

Representations and Warranties

Advertiser represents and warrants at all times throughout the Term (as defined below) that: (i) it has full authority to enter into this Agreement and to carry out and fully perform its obligations hereunder, and there is no restriction, limitation, or obligation, whether contractual, statutory or otherwise, which prevents it from maintaining its representations and fulfilling its obligations under this Agreement; (ii) it has obtained, maintains, and is the holder of all licenses, permits, certificates, and authorizations required by any applicable law, regulation, statutory or governmental authority, for it to lawfully operate its services, to use the Creative, to provide, offer, distribute, broadcast, transmit, and publicly perform the Creative, and allow VelisMedia and/or its authorized third parties and Publishers to do the same on behalf of Advertiser via the Services; (iii) it complies and shall continue to comply with all applicable laws, rules, and governmental (state, local, and community) and regulatory levies and requirements relating to it and the Services; (iv) it will comply with all applicable international, national, state, regional and local laws and regulations in marketing, and the Creative via the Services, including, without limitation and where applicable, laws, regulations and directives applicable to the processing of personal data and on the free transfer of such data, and the protection of privacy; (v) it has the full right, authority, permissions, approvals and consents (if applicable), including from end-users (as applicable), and has made all sufficient disclosures required under applicable law, to access, store, collect, analyze, use and process, and allow VelisMedia to do the same for the purpose of providing the Services in accordance with the terms of this Agreement, and all data has been and will be legally acquired, and does not and will not infringe any third party's rights; and (v) it shall be solely responsible for creating backup copies of any Creative that it creates, publishes or otherwise uses in connection with the Services, at its sole expense.

Advertiser further hereby represents and warrants that the Creative, content and materials provided by it to Velis Media under this Agreement shall not contain any content in the following categories: adult, alcohol, drugs, malware, hate speech, illegal downloads, violence and gambling or be deceptive, misleading, fraudulent or impersonate others.

Nothing in these Terms or execution thereof, shall constitute any obligation or liability to be incurred upon VelisMedia other than as explicitly determined in these Terms.

Disclaimers; Limitation of Liabilities

VELISMEDIA 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 THE SERVICES (OR ANY PART THEREOF). THE 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. VELISMEDIA IS NOT RESPONSIBLE FOR THE RESULTS OF ADVERTISER'S ADVERTISING CAMPAIGN, INCLUDING FOR ANY SUCCESS OR FAILURE THEREOF.

VELISMEDIA DOES NOT WARRANT OR REPRESENT THAT THE SERVICES UNDER THIS AGREEMENT WILL BE PROVIDED WITHOUT INTERRUPTIONS OR SHALL BE ERROR FREE, NOR THAT THE PUBLISHERS NETWORK 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 THEIR INFORMATION OBTAINED OR GENERATED IN CONNECTION WITH ADVERTISER'S USE OF THE SERVICES. VELISMEDIA DOES NOT ENDORSE ANY ENTITY, PRODUCT, SERVICE OR CREATIVE USED AND/OR TRANSMITTED IN CONNECTION WITH THE SERVICES, NOR ANY PUBLISHER(S). THE USE OF THE SERVICES ARE AT ADVERTISER'S OWN RISK.

VELISMEDIA 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 VELISMEDIA TO PERFORM UNDER THE AGREEMENT, ANY OTHER ACT OR OMISSION OF VELISMEDIA BY ANY OTHER CAUSE WHATSOEVER, INCLUDING DAMAGES ARISING FROM THE CONDUCT OF ADVERTISER, ANY PUBLISHER AND/OR ANY END-USERS, OR ANY CREATIVE 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 VELISMEDIA UNDER, ARISING OUT OF OR RELATING TO THE AGREEMENT SHALL NOT EXCEED THE SUM OF PAYMENTS ACTUALLY RECEIVED BY IT UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM OF LIABILITY.

ADVERTISER HEREBY ACKNOWLEDGES AND AGREES THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR VELISMEDIA'S SERVICES TO ADVERTISER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF VELISMEDIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES AND/OR DAMAGES.

Indemnification

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.

Advertiser shall indemnify and hold harmless Velismedia, its assignees, agents, employees, officers, directors, clients, acquirers and suppliers from and against any claims, actions, demands, losses or damages, including without limitation, attorneys' fees, reasonable legal fees, court costs, including without limitation, any claim or suits for libel, defamation, violation of rights of privacy, plagiarism, trademarks, copyright infringement, 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, or any such claim arising out of advertiser's violation of any term of this agreement. the indemnity obligations of this paragraph are contingent on Velismedia giving reasonable written notice of any such claim or suit.

Publisher's Digital Assets

EXCEPT AS OTHERWISE AGREED BY THE PARTIES IN WRITING, VELISMEDIA MAY FACILITATE THE PROMOTION OF ADVERTISER'S CREATIVE VIA ANY OF ITS PUBLISHERS' DIGITAL ASSETS, AT ITS SOLE DISCRETION. EACH PUBLISHER, INCLUDING SUCH PUBLISHER'S DIGITAL ASSETS, IS AN INDEPENDENT CONTRACTOR. VELISMEDIA AND PUBLISHER 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. YOU ARE ADVISED THAT PUBLISHER'S WEBSITE AND ANY CONTENT THEREIN MAY BE SUBJECT TO SEPARATE TERMS AND CONDITIONS WHOLLY INDEPENDENT OF THIS AGREEMENT. VELISMEDIA 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.

Intellectual Property and Maintenance

The Services (except for the Creative) 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 the Services), 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 VelisMedia and are subject to copyright and other applicable intellectual property rights under domestic laws, foreign laws and international conventions.

VelisMedia hereby grants Advertiser, and Advertiser accepts, a nonexclusive, non-transferrable, non-sub-licensable and fully revocable limited license to use the Services only in accordance with the Agreement and for the duration of the Term.

Advertiser hereby grants VelisMedia 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.

Advertiser may not copy, distribute, display, execute publicly, make available to the public, reduce to human readable form, decompile, disassemble, adapt, sublicense, make any commercial use, sell, rent, lend, process, compile, reverse engineer, combine with other software, translate, modify or create derivative works of any material that is subject to the VelisMedia's proprietary rights, including the VelisMedia's Intellectual Property, either by itself or by anyone on its behalf, in any way or by any means, unless expressly permitted in the Terms. Further, Advertiser may not (i) violate the legal rights of others and/or transmit or otherwise make available in connection with the Services any virus, worm, Trojan Horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component including code to monitor users without their prior consent; (ii) interfere with or disrupt the operation of the Services; (iii) create a database by systematically downloading and storing all or any of the content from VelisMedia's software and/or forward any data generated from the Services without the prior written consent of VelisMedia; (iv) impersonate any person or entity, including, but not limited to, any VelisMedia agent or representative, falsely state or otherwise misrepresent your affiliation with any person or entity, or express or imply that the VelisMedia endorses Advertiser; and/or (v) use the Services in any way or context, or use any Creative in connection thereto, that harms the goodwill or reputation of VelisMedia or that may disparage or bring VelisMedia into disrepute, including any use and/or Creative that contains and/or may be perceived as indecent, illegal, misleading, harmful, abusive, harassing, liable, defamatory or other offensive materials.

VelisMedia has no obligation to provide support, maintenance, upgrades, modifications, or new releases under these Terms.

Modification of Agreement

VelisMedia reserves the right to change any conditions of this Agreement at any time, subject to the prior approval of Advertiser (via the Advertiser's designated Primary Contact as indicated in the IO), which shall not be unreasonably withheld or delayed. Change notices shall be sent to Advertiser's Primary Contact by email, and Advertiser shall be responsible for complying with any changes to the Agreement immediately upon its approval, or otherwise if such approval is unreasonably withheld or delayed, 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 the changes to this Agreement. Any changes or modifications made will be in 'good faith'.

Term and Termination

The term of this Agreement will commence upon the execution hereof by both Parties and will continue until terminated by either Advertiser or VelisMedia or as detailed in the respective IO (the "**Term**"). Either Advertiser or VelisMedia may terminate this Agreement at any time, with or without cause, by giving the other Party at least twenty four (24) hours prior written notice. In the event of a material breach by Advertiser, VelisMedia may terminate this Agreement immediately without notice or cure period, without liability to VelisMedia. In the event of any termination, Advertiser shall remain liable for any Payment due under this Agreement for Services delivered by VelisMedia and such obligation to pay shall survive any termination of this Agreement. Upon the expiration or termination of these Terms and/or the Agreement, all licenses granted hereunder shall immediately terminate, and Advertiser shall immediately cease any and all use of the Services. 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 VelisMedia and you in writing.

Confidentiality

All information disclosed by either Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), prior to or during the Term, whether in writing, orally or in any other form which is not in the public domain ("**Confidential Information**"), shall be held in absolute confidence, and Receiving Party shall take all reasonable and necessary safeguards (affording the Confidential Information at least the same level of protection that it affords its own information of similar importance and in no event less than a reasonable degree of care) to prevent the disclosure of such Confidential Information to third parties. In addition, Receiving Party will limit its disclosure of the Confidential Information to employees with a "need to know" and only in the context of such employees' fulfillment of their duties under this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement, for any reason whatsoever. It is agreed that the following shall not be considered Confidential Information: (1) information that is already known to the Receiving Party at the time of disclosure, as such may be evidenced in the Receiving Party's written records; (2) information that is or becomes known to the general public through no act or omission of the Receiving Party in breach of this Agreement; (3) information that is disclosed to the Receiving Party by a third party who is not, to the knowledge of the Receiving Party, in breach of an obligation of confidentiality; (4) information that was or is independently developed by the Receiving Party without use of or reference to any of the Confidential Information, as such may be evidenced in the Receiving Party's written records; or (5) information that is disclosed pursuant to a court order, provided that the Receiving Party notifies the Disclosing Party of such order and uses reasonable efforts to limit such disclosure only to the extent required.

Entire Agreement and Miscellaneous

This Agreement reflects the sole agreement between the Parties relating to the subject matter hereof and supersedes all prior understanding, writing, proposals, representations or communication, whether oral or written, of either Party. This Agreement may only be amended by a written instrument executed by both Parties. At any time, VelisMedia may block access to the Services (or any part thereof) and/or temporarily or permanently limit, suspend or terminate such access, for any reason, at its sole discretion, in addition to any other remedies that may be available to it under any applicable law, without assuming any responsibility with respect to or in connection with such actions or any related loss of any data. The provisions of the Payment, Representations and Warranties, Disclaimers; Limitation of Liabilities, Indemnification, Publisher's Website, Intellectual Property and Maintenance, Term and Termination, Confidentiality, and Entire Agreement and Miscellaneous sections, will survive the termination or expiration of these Terms. These Terms do not, and shall not be construed to create any partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties hereto. Any claim relating to the Services will be governed by and interpreted in accordance with the laws of the State of Israel, without reference to its conflict-of-laws principles. Any dispute arising out of or related to this Agreement, including your use of the Services hereunder, will be brought in, and you hereby consent to exclusive jurisdiction and venue in, the competent courts of Tel-Aviv, Israel. 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. Advertiser may not assign, sublicense or otherwise transfer any or all of its rights or obligations under these Terms without VelisMedia's prior express written consent. 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.