

# Adtoniq Terms of Service

Welcome to Adtoniq. By using our Services (defined below) you agree to be bound by these terms and conditions (the “Agreement”) and all policies referred to in this Agreement, each as may be modified from time to time. If you do not agree to the terms of this Agreement you may not use the Services. You should print a copy of this Agreement or save it to your device for future reference.

## 1.0 Parties

1.1. This Agreement is between any person or entity that registers for and uses the Services (“Publisher” or “You”) which expressions shall include any Authorized Users unless the context indicates otherwise and MyData Corporation, dba Adtoniq (“We” or “The Company”) incorporated in California (together the “parties”).

1.2. To contact us, please see our [“contact us”](#) page.

## 2.0 Application of Agreement

2.1 Please read the Agreement carefully. This Agreement, along with the Website Terms of Use, Privacy Statement and any other applicable policies or guidelines posted on the Site, shall govern the your use of the Services and You agree to be bound by them.

2.2. By using the Services, You represent and warrant that you have read, understand, have the legal capacity to, and hereby agree to be legally bound by this Agreement.

2.3. The Company is permitted to make changes to this Agreement and any other policies or guidelines from time to time by publishing the changes to this agreement on our website. Continued use of the Services by you indicates that you fully accept the changes to the Agreement. Such modifications shall become effective immediately upon their being posted on our website.

2.4 This Agreement, and any agreement between us, is only in the English language.

## 3.0 Interpretation

3.1. The definitions and rules of interpretation in this clause apply in this Agreement.

“Account” means the account held by a Publisher with Adtoniq following Registration.

“Ad Blocker” means any web browser extension, browser or similar technology installed by an End User or network based ad blocker, to remove or alter advertising content or other content on a webpage.

“Authorized Users” means employees, agents or other representatives of the Publisher who access or use the Services on behalf of the Publisher.

“Confidential Information” information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 13.

“End User” means a visitor to or user of the Publisher’s Website.

“Fees” means the fees payable by the Publisher to The Company for the Services as determined in accordance with clause 8.

“Integration Code” means the current section of code made available to a Publisher by The Company on the Site for the purpose of integrating into the Publisher’s Website to allow The Company to analyze the impact of Ad Block on that website and provide the Services (as may be amended by The Company from time to time).

“Publisher’s Area” means the area of the Site only accessible to a Publisher following Registration.

“Publisher’s Website” means the website (including web pages and web server) used by the Publisher in connection with the Services.

“Registration” means the registration process carried out by a Publisher either through the Site or with an authorized representative of Your Company to gain access to the Publisher’s’ Area and use the Services.

“Relevant End Users” mean End Users using Ad Block technologies.

“Services” means the services provided by The Company to the Publisher under this Agreement via the Site or any other website notified to the Publisher by The Company from time to time as described in clause 5 below.

“Term” Term starts when publisher downloads our software.

“Virus” means anything or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect

the user experience, including worms, Trojan horses, viruses and other similar things or devices.

3.2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns. A reference to a company shall include any company, corporation or other corporate body, wherever and however incorporated or established.

3.3. Words in the singular shall include the plural and vice versa and a reference to one gender shall include a reference to the other genders.

3.4. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

3.5. A reference to a particular statute or statutory provision is a reference to it as it is in force in the United States for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

#### **4.0 How The Contract is Formed Between You and Us**

4.1. In order to use the Services, the Publisher completes Registration Process. Registration may not be completed by any automated methods or "bots".

4.2. The contract in accordance with the terms of this Agreement will be deemed to have been formed on the completion of Registration.

4.3. On completion of Registration, You will be granted access to the Publisher's Area. We reserve the right in our sole discretion at any time to cancel your Account, the provision of any Service to You and/or to refuse You access to the Publisher's Area, in each case without notice to You.

#### **5.0 The Company Services**

5.1. On completion of Registration, the Publisher must correctly install the Integration Code to begin receiving the Services. The Publisher may be required by The Company to update the Integration Code from time to time in order to continue receiving the Services. The Services which may be provided to the Publisher are as follows:

(a) Analytics

(i) The Company will aggregate statistics in relation to the use of Ad Blocking by End Users and make these statistics available to the Publisher.

(ii) So that The Company can create the above statistics, the Publisher agrees and understands that every visit to the Publisher's Website by an End User may result in a corresponding request to The Company servers to investigate and record whether Ad Blocking is installed and being used.

5.2. The Services or any part thereof may be amended, suspended or discontinued by The Company at any time at its sole discretion and we will attempt to notify user by email notification.

## **6.0 Privacy**

6.1. The Company is committed to respecting your privacy. These terms and conditions together with our Privacy Policy set out the use that The Company may make of your information.

6.2. The Company will store the details provided by you in Registration securely. In particular, we will not store any password chosen by you on Registration in any reversible format. We confirm that we endeavor to store passwords in accordance with best security practices.

6.3. The Company shall not publicly disclose that you have signed up to receive the Services unless:

(a) You have given The Company your permission to do so in writing; or

6.4. The Company will not publicly disclose any statistics that we have collected about Publisher's Website in any identifiable form.

6.5. The Company may:

(a) analyze the Publisher Website to better understand your business requirements; and

(b) aggregate data collected from your Publisher's Website to generate public statistics about Ad Blocking. We will take steps to ensure that specific information about your Publisher's Website cannot be inferred from these public statistics.

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1. FEES AND PAYMENT

You understand that the free version of this plugin has a 100,000 pageview monthly quota limit, after which you can sign up for one of our payment programs to process more pageviews.

## **7.0 Sharing Your Data With The Company**

7.1 The Company is committed to protecting the data that you share with us. **If you choose** to share your data with the company, the following is our policy:

7.2 Publisher grants company the right to share and access their data with the company for the purpose of better providing our services to the publisher and understanding the impact of ad blocking on customers business and website(s).

7.3 Data Includes Google Analytics Data and other data services in the future.

7.4 Publisher grants the company the right to access and use the publisher's data to better provide our services to publisher.

7.5 Standard Care. Company shall exercise at least the same degree of care as it uses with its own data and Confidential Information, but in no event less than reasonable care, to protect the Data from misuse and unauthorized access or disclosure.

7.6 Safeguards For Publisher's Data. Company shall use appropriate safeguards to protect the Data from misuse and unauthorized access or disclosure, including maintaining adequate physical controls and password protections for any server or system on which the Data is stored, ensuring that Data is not stored on any mobile device (for example, a laptop or smartphone) or transmitted electronically unless encrypted, and taking any other measures reasonably necessary to prevent any use or disclosure of the Data other than as allowed under this agreement.

7.7 Personal Information. Company will not attempt to identify any Person whose information is contained in any Data.

7.8 Ownership. Publisher has the exclusive right to to grant Company use of the Data.

## **8.0 Confidentiality**

Neither party will use or disclose the other party's Confidential Information without the other's prior written consent except for the purpose of performing its obligations under this Agreement or if required by law, regulation or court order; in which case, the party being compelled to disclose Confidential Information will give the other party as much notice as is reasonably practicable prior to disclosing the Confidential Information.

## **9.0 Publisher Obligations, Representations and Warranties**

9.1. The Publisher undertakes that it shall:

(a) comply with all applicable laws and regulations with respect to its activities under this Agreement and in particular all data protection legislation.

- (b) use all reasonable endeavors to prevent any unauthorized access to, or use of, the Services and, in the event of any such unauthorized access or use, promptly notify The Company;
- (c) ensure that any password or security code provided to it for the purpose of accessing the Publisher's Area or any other area of the Site is kept confidential and secure; the Publisher must inform The Company immediately if it's password or security code has been lost or stolen;
- (d) obtain and shall maintain all necessary licenses, consents, and permissions necessary for The Company, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- (e) ensure that its network and systems comply with any relevant specifications provided by The Company from time to time; and
- (f) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to The Company's data centers, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Publisher's network connections or telecommunications links or caused by the internet.

9.2. The Publisher shall not:

(a) subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, or otherwise commercially exploit, or otherwise make the Services available to any third party; or

1. b) access all or any part of the Services in order to build a product or service which competes with the Services;

(c) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, color, religious belief, sexual orientation, disability, or any other illegal activity; or causes damage or injury to any person or property; and The Company reserves the right, without liability to You, to disable your access to any material that breaches the provisions of this clause.

**10.0. The Publisher hereby represents and warrants to The Company that it has:**

- (a) legal capacity and authority to enter into this Agreement; and
- (b) not made any untruthful statements during Registration.

## **THE COMPANY'S OBLIGATIONS**

10.1. The Company undertakes that the Services will be performed with reasonable skill and care.

10.2. The undertaking at clause 11.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to The Company's instructions, or modification or alteration of the Services by any party other than The Company or The Company's duly authorized contractors or agents. If the Services do not conform to the foregoing undertaking, The Company will, at its own expense, endeavor to correct any such non-conformance within a reasonable timeframe, or make efforts to provide the Publisher with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Publisher's sole and exclusive remedy for any breach of the undertaking set out in clause 11.1. Notwithstanding the foregoing, The Company:

(a) does not warrant that the Publisher's use of the Services will be uninterrupted or error-free; nor that the Services and/or the information obtained by the Publisher through the Services will meet the Publisher's requirements; nor that the statistics or information provided in the Publisher's Area will be accurate or complete; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet and other electronic communications, and the Publisher acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

10.3. This Agreement shall not prevent The Company from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

10.4. The Publisher acknowledges and understands that The Company is under no obligation:

(a) to back-up copies of the information made available in the Publisher's Area including any statistics or analytics. The Publisher is solely responsible for maintaining its own records; or (b) to any End User in relation to the Services.

10.5. The Company warrants that it has and will maintain all necessary licenses, consents, and permissions necessary for the performance of its obligations under this Agreement.

10.6. The Company shall use commercially reasonable endeavors to make the Services available 24 hours a day, seven days a week, except for maintenance purposes.

## **11.0 PROPRIETARY RIGHTS**

11.1. The Publisher acknowledges and agrees that The Company and/or its licensors claim to own all intellectual property rights in the Services. Except as expressly stated herein, this Agreement does not grant the Publisher any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the Services.

11.2. The Company grants to the Publisher a revocable, royalty-free license for the term of this Agreement to integrate the Integration Code into the Publisher's webpage.

## **12.0 INDEMNITY**

12.1. The Publisher shall defend, indemnify and hold harmless The Company against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Publisher's use of the Services, provided that:

- (a) the Publisher is given prompt notice by The Company of any such claim;
- (b) The Company provides reasonable co-operation to the Publisher in the defense and settlement of such claim, at the Publisher's expense; and
- (c) the Publisher is given sole authority to defend or settle the claim.

12.2. In no event shall The Company, its employees, agents and sub-contractors be liable to the Publisher for any claim for infringement of any patent effective as of entering into this Agreement, copyright, trade mark, database right or right of confidentiality to the extent that the alleged infringement is based on:

- (a) a modification of the Services by anyone other than The Company; or
- (b) the Publisher's use of the Services in a manner contrary to the instructions given to the Publisher by The Company; or
- (c) the Publisher's use of the Services after notice of the alleged or actual infringement from The Company or any appropriate authority.

12.3. The foregoing states the Publisher's sole and exclusive rights and remedies, and The Company's (including The Company's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

### **13.0 LIMITATION OF LIABILITY**

13.1. This clause 13 sets out the entire financial liability of The Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Publisher in respect of:

- (a) any breach of this Agreement;
- (b) any use made by the Publisher of the Services or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

13.2. Except as expressly and specifically provided in this Agreement:

- (a) the Publisher assumes sole responsibility for results obtained from the use of the Services by the Publisher, and for conclusions drawn from such use or any statistics provided by The Company to the Publisher in connection with the Services;
- (b) The Company shall have no liability for any damage caused by errors or omissions in any information, instructions, statistics or scripts provided by The Company to the Publisher in connection with the Services; or any actions taken by The Company at the Publisher's direction; or any information or instructions provided by the Publisher to The Company;
- (c) The Company shall have no liability for any End User or Relevant End User;
- (d) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
- (e) the Services are provided to the Publisher on an "as is" basis.

13.3. Nothing in this Agreement excludes the liability of The Company:

- (a) for death or personal injury caused by The Company's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.4. Subject to clause 15.2 and clause 15.3:

- (a) The Company shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

(b) The Company's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Fees paid by the Publisher in the 3 month period immediately preceding the date the act or omission giving rise to such claim arose.

#### **14.0 CANCELLATION OF SERVICE**

14.1. The Publisher may cancel its Account and/or subscription to the Services at any time.

14.2. The Company reserves the right to cancel any Account at our sole discretion and without any notice to the Publisher.

14.3. On cancellation of this Agreement for any reason:

(a) all licenses granted under this Agreement shall immediately terminate;

(b) The Company may destroy or otherwise dispose of any data belonging to the Publisher unless it is agreed otherwise between the parties; and

(c) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving cancellation shall not be affected or prejudiced.

#### **15.0 FORCE MAJEURE**

15.1. The Company shall have no liability to the Publisher under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of The Company or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Publisher is notified of such an event and its expected duration.

#### **16.0 WAIVER**

16.1. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

16.2. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

## **17.0 SEVERANCE**

17.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

17.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

## **18.0 ENTIRE AGREEMENT**

18.1. This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

18.2. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

## **19.0 ASSIGNMENT**

19.1. The Publisher shall not, without the prior written consent of The Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

19.2. The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

## **20.0 NO PARTNERSHIP OR AGENCY**

20.1. Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorize either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **21.0 COMMUNICATION BETWEEN US**

21.1. Subject to clause 21.3 below, any notice required to be given under this Agreement shall be in writing and shall be delivered sent via email to the other party at its address set out in this Agreement or at the time of registration, or

such other email address as may have been notified by that party for such purposes.

21.2. A notice delivered by email shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9.00 am on the first business day following delivery). A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the time stamp on the email obtained by the sender).

21.3. Where indicated in this Agreement, notices may be served by email and shall be deemed to have been received one working day after transmission.

You can reach the company at [support@adtoniq.com](mailto:support@adtoniq.com) or via phone (415) 340-1949

## **22.0 GOVERNING LAW AND JURISDICTION**

22.1. This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with the laws of California, county of San Francisco.

22.2. The parties irrevocably agree that the courts of United States and California have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).