



Advertising Terms and Conditions

General. All orders or other requests for advertising (whether made by the advertiser directly, or through an agency, collectively, "Advertiser"), are governed by these standard terms and conditions ("Terms") and the attached Insertion Order, with Advertiser's authorized signature (collectively, the "IO"). No other conditions, provisions, or terms of any sort appearing in any writings or other communications made in connection with this IO, including without limitation those contained in on accompanying checks or other forms of payment, shall be binding on the SourceForge, Inc. ("SourceForge"), whether in conflict with or in addition to this IO unless specifically agreed to in writing signed by an authorized representative of SourceForge and the Advertiser. The Terms of this IO supersede all terms and conditions on any previous agreements between SourceForge and the Advertiser relating to the subject matter set forth herein. SourceForge's only obligation to serve advertisements hereunder shall be to serve advertisements of the Advertiser described herein, and in no event shall SourceForge be obligated to serve advertisements for any other Advertiser. IOs are binding on the Advertiser and not subject to cancellation, except as provided below.

Advertisement Orders. An IO must be received by SourceForge at least seven (7) business days in advance of the requested campaign start date. The IO's corresponding advertising materials, which include electronic artwork files, ad tags and active URL's (collectively, "Ad Creative") must also be received electronically by SourceForge at least seven (7) business days in advance of the requested campaign start date. SourceForge will make commercially-reasonable efforts to notify the Advertiser within two (2) business days of receipt of an IO if the specified advertising inventory is not available. Notification of SourceForge's acceptance of the IO, including acceptance of the proposed start and end dates of the campaign, total number, positioning and frequency of specified ad types, will be made upon the written (which, unless otherwise specified, for purposes of these Terms shall include paper, fax, or e-mail communication) approval to the Advertiser. Any ad creative received in conjunction with and Advertiser's IO is subject to SourceForge's approval. SourceForge reserves the right to reject or cancel any IO, ad creative, ad position or format or the like at any time by providing written notice to the Advertiser. Advertisements that simulate SourceForge's editorial matter in appearance or style, or that are not readily identifiable as advertisements, are not acceptable. SourceForge may in its sole discretion label any advertisement as an "advertisement" for clarification. Failure by SourceForge to publish any requested advertisement does not constitute a breach of contract or otherwise entitle Advertiser to any legal remedy.

IO Modifications. In general, any cancellations or change orders must be requested in writing by the Advertiser, and acknowledged and accepted in writing by SourceForge. Advertisers may make changes or updates to its campaign ad creative, and to its campaign launch and end dates within the following areas:

Ad Creative. Advertiser may submit to SourceForge requests for changes to its Ad Creative up to three (3) business days to its campaign launch date. Advertiser may submit to SourceForge requests for changes to its Ad Creative on in-process campaigns, however any such changes must be received by SourceForge at least five (5) business days in advance of requested change date. Ad creative change requests cannot however be submitted any more frequently than once every ten (10) business days during the campaign period.

Campaign Postponement. In cases where Advertisers ad creative for an IO has not been received by SourceForge within five (5) business days of the campaign start date of the accepted IO, SourceForge reserves the right to reduce the total number of impressions for each day the campaign is delayed, based on the IO's stated frequency. Advertiser will however, be invoiced for the IO's total amount.

Campaign Cancellation. IOs for advertising campaigns cancelled in writing by Advertiser less than ten (10) business days before the scheduled start date are subject to a fifteen percent (15%) cancellation fee based on the total invoiced amount of the cancelled IO. SourceForge will honor IO cancellations during in-process campaigns a minimum of ten (10) business days after receipt of written notification. Advertisers will be re-billed for all impressions delivered through the effective end date. Advertiser understands that all frequency discounts are based on the Advertiser's commitment to fulfilling the frequency indicated in the IO. If, for any reason, this frequency is not met by the cancellation of the IO, Advertiser agrees to pay a short rate charge on all ads run. This charge will be equal to the difference between the rate shown in the IO and the rate earned based on the applicable rate card for the actual frequency completed. An IO may be canceled, postponed or changed by SourceForge at any time for any or no reason without notice.

Campaign Extension. Advertiser may submit requests for campaign extensions at any time prior its campaign start date or when the campaign is in process. However, as in any new IO, commitment from SourceForge on specific placement, type and frequency of advertising is based on a first come, first served basis based on available inventory.

Payment. By submitting an IO for advertising to SourceForge, Advertiser agrees to be liable for the applicable fees associated with such IO. Advertiser will pay SourceForge the total fee due hereunder in equal payments allocated over the number of months the advertisement is to run. Each payment is due by each monthly anniversary of the date on which the first ad request is delivered. SourceForge's standard payment terms are Net 30 (2% discount/ Net 15). All unpaid advertising fees shall accrue interest at the rate of 1.4% per month until paid, or the legal maximum, whichever is less. In addition to all other available rights and remedies, SourceForge may cancel and remove any advertisement that is not paid for on a timely basis.

Delivery and Makegood. SourceForge counts ads delivered based on ad requests, and SourceForge will issue any tracking reports on that basis. The impression and click-through counts generated by SourceForge ad servers are the method by which SourceForge determines if it has fulfilled its advertising commitments. SourceForge acknowledges that many Advertisers use third-party ad servers as their preferred method of tracking advertising campaigns. SourceForge commits to using commercially reasonable efforts to resolve any count discrepancy between the two methods. If SourceForge fails to deliver the agreed upon number of ad requests during the agreed upon period pursuant to the IO, Advertiser's sole remedy for such failure will be an extension of the IO until the agreed upon number of ad requests (or other ad requests as the parties may agree in writing) are provided.

Search Terms; Keywords; Topics. To the extent Advertiser is purchasing one or more advertisements related to a search term(s), key word (s), section (s), or topic (s) (collectively "Search Terms"), Advertiser represents and warrants that Advertiser has the legal rights necessary to utilize such Search Terms in connection with the advertisement(s). SourceForge reserves the right to revoke at any time Advertiser's use of any Search Term(s) which do not incorporate registered trademarks of Advertiser. Advertiser acknowledges that its utilization of any Search Term(s) will not create, nor will it represent it has, any right, title or interest in or to such Search Term(s), other than the right, title and interest Advertiser holds in Advertiser's registered trademark independent of the Search Term(s).

Updating SourceForge Network Sites, Services and Advertising Specifications. Advertiser acknowledges that, consistent with SourceForge's editorial discretion, SourceForge may redesign, delete or replace the pages, programs or channels on which the impressions will be displayed or transmitted, or may redesign or replace the type of links,

buttons, boxes, and banners purchased by Advertiser; provided, that SourceForge uses commercially reasonable efforts to provide Advertiser with comparable links, buttons, boxes, and banners (or other ad requests as the parties may agree). SourceForge will provide the Advertiser at least ten (10) business days prior written notification of any material changes to the design or architecture of the web site or placement position of the advertisement. SourceForge reserves the right to change any of its advertising specifications at any time. SourceForge's advertising specifications are accessible through the URL <http://www.sourceforge.com/advertise/>.

Confidentiality. SourceForge and Advertiser agree that each will take reasonable steps, at least substantially equivalent to the steps it takes to protect its own confidential or proprietary information as defined below during the term of this IO, and for a period of three (3) years following expiration, cancellation or termination of this IO, to prevent the duplication or disclosure of Confidential Information of the other party other than by or to its employees or agents who must have access to such Confidential Information to perform such party's obligations hereunder, which employees or agents are subject to strict confidentiality obligations. Notwithstanding the foregoing, either party may disclose Confidential Information without the consent of the other party, to the extent such disclosure is required by law, rule, regulation or government or court order. In such event, the disclosing party shall provide at least five (5) business days prior written notice of such proposed disclosure to the other party and shall submit a request to the applicable governing body that this IO (or portions thereof) receive confidential treatment to the fullest extent permitted under applicable laws, rules and regulations. "Confidential Information" shall mean any information relating to or disclosed in the course of this IO, which is or should be reasonably understood to be confidential or proprietary to the disclosing party, including, but not limited to, the material terms of this IO and information about SourceForge users. Confidential Information shall not include information (a) already lawfully known to or independently developed by the receiving party, (b) disclosed in published materials, (c) generally known to the public, or (d) lawfully obtained from any third party. Upon the expiration, cancellation or termination of this IO, each party will, upon the written request of the other party, return or destroy (at the option of the party receiving the request) all Confidential Information specified by the other party. This section shall survive the expiration, termination or cancellation of this IO for the three (3) year period specified herein.

Licenses and Indemnification. Advertiser grants SourceForge a license to use, reproduce, publicly display and distribute Advertiser's advertisements and collateral information and warrants that Advertiser has the right to grant such license. Advertiser represents and warrants to SourceForge that the Advertiser is the owner or is licensed to use the entire contents and subject matter contained in its advertisements and collateral information, including, without limitation, (a) the names and/or pictures of persons; (b) any copyrighted material, trademarks, service marks, logos, and/or depictions of trademarked or service marked goods or services; and (c) any testimonials or endorsements contained in any advertisement submitted to SourceForge. Advertiser warrants and represents to SourceForge that each Internet site identified by URLs in advertisements: (a) is controlled by Advertiser and operated by Advertiser and/or its independent contractors, (b) will be functional and accessible at all times, and (c) is in compliance with all applicable laws and regulations, and suitable in all respects to be linked to from the applicable site containing the advertisement. SourceForge may test Advertiser's URLs, and in SourceForge's sole discretion, may remove any URLs at any time that fail to comply with the above requirements. In addition, Advertiser represents that the Advertiser's advertisements and collateral information do not violate any applicable local, state or federal law or regulation. In consideration of SourceForge's acceptance of such advertisements and information for publication, the Advertiser and agency will jointly and severally indemnify and hold harmless SourceForge and its officers, directors, shareholders, employees, accountants, attorneys, agents, parent, affiliates, subsidiaries, successors and assigns from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or related to: (i) Advertiser's breach of any covenants, representations and warranties made therein, (ii) Advertiser's performance under this IO, and (iii) the copying, printing, distributing, transmitting or publishing of Advertiser's/agency's advertisements or collateral information by SourceForge.

Limitation of Liability. In the event (i) SourceForge fails to publish an advertisement in accordance with the schedule provided in the IO, (ii) SourceForge fails to deliver the number of total impressions specified in the IO (if any) by the end of the specified period, or (iii) of any other failure, technical or otherwise, of such advertisement to appear or be transmitted as provided in the IO, the sole liability of SourceForge to Advertiser shall be limited to, at SourceForge's sole discretion, a pro rata refund of the advertising fee representing the undelivered impressions, placement of the advertisement at a later time in a comparable position, or extension of the term of the IO until total impressions are delivered. In addition, SourceForge is not responsible for the quality and/or clarity of any Internet radio, audio or video advertisements.

UNDER NO CIRCUMSTANCES WILL SOURCEFORGE BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, FOR LOST INCOME OR PROFITS, IN ANY WAY ARISING OUT OF OR RELATED TO THIS IO, EVEN IF SOURCEFORGE HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES.

Force Majeure. Neither party will be liable for any delays or failures in performance due to circumstances beyond such party's reasonable control.

Choice of Law and Forum. This IO shall be interpreted and construed in accordance with the laws of the State of California, without regard to its conflicts of laws provision, and with the same force and effect as if fully executed and performed therein. Each party hereby consents to the exclusive personal jurisdiction of the California state courts located in Santa Clara County, acknowledges that venue is proper only in any state or Federal court in the State of California, agrees that any action related to this IO must be brought in a state or federal court in the state of California, and waives any objection that may exist, now or in the future, with respect to any of the foregoing.

Assignment. Advertiser may not assign its rights or obligations under this IO, whether voluntarily or by operation of law, without the prior written consent of SourceForge, which SourceForge may give or withhold in its sole discretion. Any assignment in violation of the foregoing will be void. If one party to this IO brings an action against the other party to enforce its rights under this IO, the prevailing party shall be entitled to recover its costs and expenses, including, without limitation, reasonable attorneys' fees and costs incurred in connection with such action, including any appeal of such action.

Severability. If any term, condition, or provision in this IO is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this IO. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

Entire Agreement. The provisions stated in this IO constitute the final, complete and exclusive statement of the agreement between the parties regarding the provision of services and materials under this IO, and supersede all prior or contemporaneous oral or written proposals, all negotiations, conversations or discussion between the parties relating to this IO and industry custom. Any waivers related or amendments to this IO, to be effective, must be in writing, signed by an authorized representative of each party.

ACCEPTED AND AGREED TO:

Company Name: _____

By: _____

Print Name: _____

Effective Date: _____