These Exponential Interactive Advertiser Terms and Conditions (“Terms”) apply to all advertising that is placed or agreed to be placed (each an “Ad” or “Advertising”) by Exponential Interactive UK Limited and/or its affiliate New Wave Media, Inc. d/b/a AdoTube (collectively “Exponential Interactive”) on media represented by Exponential Interactive (“Media”). Anyone agreeing an Insertion Order for, or otherwise requesting or agreeing to the placement of, Advertising on Media (an “Advertiser”) is deemed to agree to these Terms. Exponential Interactive does not permit any other terms or conditions to apply to such Advertising. An Insertion Order that is agreed by Exponential Interactive is referred to as an “IO” below. These Terms together with an IO form the “Agreement.”

1. **CPM Campaigns.** This Clause 1 applies only to campaigns priced on a cost per impression (CPM) basis.
   1. **Delivery and Measurement:** Exponential Interactive will make reasonable commercial efforts, but does not guarantee, to deliver the total number of impressions shown on the IO. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential Interactive’s measurement of impressions will be the basis for all invoicing. If a third party ad server is used for measuring impressions, Advertiser must provide Exponential Interactive with a working ad server login prior to the first campaign start date; provided that, for AdoTube campaigns only, such login must be provided no later than three (3) days prior to the first campaign start date. If Exponential Interactive is not provided with a working login prior to the first campaign start date (or, for AdoTube campaigns only, no later than three (3) days prior to the first campaign start date), Exponential Interactive’s measurement of impressions will be the basis for all invoicing despite anything to the contrary in the IO.
   2. **Payment:** Advertiser will pay Exponential Interactive for all impressions delivered. Exponential Interactive will invoice Advertiser at the end of each month in which the ad campaign described in the IO runs. Advertiser will pay Exponential Interactive within 30 days from the invoice date. If the difference between Exponential Interactive’s measurement and Advertiser’s measurement of delivered impressions exceeds ten percent (10%), Advertiser must notify Exponential Interactive of the discrepancy within five (5) business days (a “business day” being a day other than Saturday, Sunday and any public holiday in England) of Advertiser’s receipt of Exponential Interactive’s invoice and the parties will make prompt and good faith efforts to resolve the discrepancy; however, providing notice of the discrepancy does not relieve Advertiser of its obligation to pay Exponential Interactive for impressions not in dispute. Once the discrepancy is resolved, any additional amounts determined to be due will be paid by Advertiser within ten (10) days of Exponential Interactive’s request for payment. Late payments shall bear interest at the rate set in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (accruing on a daily basis from the date payment becomes due until payment in full, whether before or after judgment), or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   3. **Cancellation:** Campaign will end when budget is exhausted unless a) the IO has a specific end date, or b) campaign is cancelled. Exponential Interactive or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice. Advertiser understands that rates shown on the IO are based on the contracted number of impressions and may reflect volume discounts. If Advertiser cancels IO before all contracted impressions are delivered, Advertiser will be invoiced based on the CPM published on Exponential Interactive’s then-current Rate Card.
2. **CPC Campaigns.** This Clause 2 applies only to campaigns priced on a cost per click (CPC) basis.
   1. **Delivery and Measurement:** Exponential Interactive will make reasonable commercial efforts, but does not guarantee, to generate the total number of clicks shown on the IO. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential Interactive’s measurement of clicks will be the basis for all invoicing. If a third party ad server is used for measuring clicks, Advertiser must provide Exponential Interactive with ready access to a working ad server login prior to the first campaign start date; provided that, for AdoTube campaigns only, such login must be provided no later than three (3) days prior to the first campaign start date. If Exponential Interactive is not provided with a working login prior to the first campaign start date (or, for AdoTube campaigns only, no later than three (3) days prior to the first campaign start date), Exponential Interactive’s measurement of clicks will be the basis for all invoicing despite anything to the contrary in the IO.
   2. **Payment:** Advertiser will pay Exponential Interactive for all clicks generated. Exponential Interactive will invoice Advertiser at the end of each month in which the ad campaign described in the IO runs. Advertiser will pay Exponential Interactive within 30 days from the invoice date. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   3. **Cancellation:** Exponential Interactive or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice.
3. **CPA Campaigns.** This Clause 3 applies only to campaigns priced on a cost per action (CPA) basis.
   1. **Insertion Orders:** All advertisement buys shall be accompanied by an IO specifying, at minimum: (a) the type and amount of deliverables (e.g., conversions or other desired actions) (the “Deliverables”); (b) the price(s) for such Deliverables; (c) the maximum amount of money to be spent pursuant to the IO (if applicable); (d) the start and end dates of the campaign; and (e) the identity of and contact information for any third party ad server, (if applicable).
   2. **Submission of Ad Creative; Trafficking; Pixel Placement:** Creative must be received at least three (3) business days in advance of the campaign’s scheduled start date (five (5) days for Rich Media creative). If Advertiser is preparing creative, Advertiser will provide multiple creative ad units for all standard IAB sizes for each campaign. Exponential Interactive will control creative use and weighting. Advertiser will place an Exponential Interactive pixel on a mutually agreed upon confirmation page in order to enable Exponential Interactive ad server optimization and tracking. Advertiser must ensure that Exponential Interactive is enabled to confirm that the pixel has been properly implemented prior to starting campaign. Once placed, Advertiser must ensure that the Exponential Interactive pixel remains on the confirmation page for the duration of the campaign and is not altered or moved without the prior consent of Exponential Interactive. In the event of any disruption in the operation of Advertiser’s website or the Exponential Interactive pixel, Advertisers shall, (i) promptly notify Exponential Interactive of such disruption and (ii) be responsible for payment during such period of disruption on a pro rata basis based on the average completed actions recorded by Exponential Interactive during a period of the same duration as such disruption over the prior three (3) days.
   3. **Pay for Performance; Reporting:** Unless explicitly set forth on the IO, Advertiser shall pay only for completed actions at the rate set forth on the IO. Exponential Interactive makes no guarantee as to the performance of any advertising campaign or of the number of actions or impressions that will be generated. Exponential will use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless explicitly set forth on the IO, Exponential Interactive and Advertiser will each track the number of actions generated and the greater of the two counts will be the basis for invoicing. If Advertiser’s own ad server is used for measuring actions, Advertiser agrees to provide daily reporting to Exponential Interactive detailing recorded actions by day and month to date during the term of the campaign. If Advertiser uses a third party ad server for measuring actions, Advertiser must provide Exponential Interactive with a working ad server login prior to the first campaign start date.
   4. **Payment:** Advertiser will receive a monthly invoice detailing the number of actions recorded during the prior month. Invoices shall be based upon Advertiser’s reporting so long as the discrepancy between actions recorded by Advertiser and by Exponential Interactive is not greater than ten percent (10%). In the event of a discrepancy of greater than ten percent (10%), the monthly invoice shall be based on the greater of the two recorded action counts. Notwithstanding the foregoing, if daily reporting is not received by Exponential Interactive for three (3) consecutive days, then Exponential Interactive reserves the right to use its count of recorded actions for invoicing purposes. All invoices are due and payable within thirty (30) days from date of invoice. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for reasonable costs associated with the collection of undisputed past due amounts.
   5. **Cancellation:** Exponential Interactive or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice. Upon cancellation of an IO for any reason, Advertiser will be billed for all activity through the effective date of cancellation.
   6. **Audit Rights:** The parties shall have reciprocal rights to audit the other party’s books and records for the purpose of confirming clicks received by Advertiser, provided, however, that neither party shall be entitled to audit the records of the other party more than one (1) time per calendar year.
   7. **Representations & Warranties; Indemnification:** Exponential Interactive represents and warrants that (i) it shall not change any creative provided by Advertiser without Advertiser’s prior written consent; (ii) it shall comply with all applicable laws in carrying out these Terms; and (iii) it shall not display Advertising on any Website that Advertiser deems to be offensive, misleading, deceptive, libelous, defamatory or obscene or which, to Exponential Interactive’s knowledge, violates any laws. Exponential Interactive agrees to indemnify, defend and hold harmless Advertiser and its officers, directors, agents, affiliates and employees from and against all claims, actions, liabilities, losses, damages and costs (including, without limitation, reasonably attorney’s fees) that may be incurred by any of them by reason of any claims, suits or proceedings arising out of any material breach of this representation or warranty. This Clause shall survive completion, cancellation, or termination of the IO to which these Terms apply.
   8. **User Data; Privacy:** All personally identifiable information provided by individual web users who are informed that such information is being gathered solely on behalf of Advertiser pursuant to the Advertiser’s posted privacy policy shall be considered the property of Advertiser, shall be subject to the Advertiser’s posted privacy policy, and shall be considered Confidential Information. Any other use of such information must be set forth in the Insertion Order signed by both parties. Each party shall have posted on its Web site, and shall at all times abide by, a privacy policy that conforms in all material respects to all applicable laws and regulations. Failure by either party to continue to post a privacy policy or non-adherence to its own privacy policy is grounds for immediate cancellation of the related Insertion Order by the other party.
4. **CPV/CPCV Campaigns:**  This Clause 4 applies only to campaigns priced on a cost per view (CPV) or cost per completed view (CPCV) basis.
   1. **Ad Submission:** Advertiser will provide creative ad units for the campaign. In order for the campaign to start on time, creative ad unit(s) must be received at least three days prior to the campaign start date.
   2. **Delivery and Measurement:** Exponential Interactive will make reasonable commercial efforts, but does not guarantee, to deliver the total number of views or completed views shown on the IO. A view is defined as a launch of a video ad unit, whether or not the ad unit plays to completion. A completed view is defined as a launch of a video ad unit which plays to completion. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential Interactive’s measurement of views will be the basis for all invoicing. If a third party ad server is used for measuring views, Advertiser must provide Exponential Interactive with a working ad server login prior to the first campaign start date. If Exponential Interactive is not provided with a working login prior to the first campaign start date, Exponential Interactive’s measurement of views will be the basis for all invoicing despite anything to the contrary in the IO.
   3. **Payment:** Advertiser only pays for views or completed views delivered. Advertiser will pay Exponential Interactive within 30 days from the invoice date. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law, 30 days after the invoice date. Advertiser shall be responsible for the cost of collecting past due amounts.
   4. **Cancellation:** Exponential Interactive or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice.
5. **CPE Campaigns:** This Clause 5 applies only to campaigns priced on a cost per engagement (CPE) basis.
   1. **Ad Submission:** Advertiser will provide creative ad units for the campaign. In order for the campaign to start on time, creative ad unit(s) must be received at least three days prior to the campaign start date.
   2. **Delivery and Measurement:** Exponential Interactive will make reasonable commercial efforts, but does not guarantee, to deliver the total number of engagements shown on the IO. An engagement is defined as the user clicking or tapping on an ad unit which launches an associated video ad unit or hovering his or her mouse over an ad unit for a period of time sufficient to launch the associated video ad unit. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential Interactive’s measurement of engagements will be the basis for all invoicing. If a third party ad server is used for measuring engagements, Advertiser must provide Exponential Interactive with a working ad server login prior to the first campaign start date. If Exponential Interactive is not provided with a working login prior to the first campaign start date, Exponential Interactive’s measurement of engagements will be the basis for all invoicing despite anything to the contrary in the IO.
   3. **Payment:** Advertiser only pays for engagements delivered. Advertiser will pay Exponential Interactive within 30 days from the invoice date. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law, 30 days after the invoice date. Advertiser shall be responsible for the cost of collecting past due amounts.
   4. **Cancellation:** Exponential Interactive or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice.
6. **CPME Campaigns:** This Clause 6 applies only to campaigns packaged on a cost per impression/engagement (CPME) basis.
   1. **Ad Units:** Exponential will provide all creative ad units for the campaign.
   2. **Delivery and Measurement:** Exponential will make reasonable commercial efforts, but does not guarantee, to deliver the total number of impressions and engagements shown on the IO. Engagements and impressions will result from the same ad execution. CPME budget allocations to CPE and CPM line items are estimates based on performance benchmarks. Final billable amounts will be reconciled at the end of the CPME campaign; provided that the final billable amounts will not exceed the total budget for the CPME campaign stated in the IO. An engagement is defined as follows: (i) for the “Ad Engage” in-stream advertising product, a three (3) second mouse-over or a click to expand; (ii) for the “Glow” or “Illuminate-3” display advertising products, a three (3) second mouse-over; (iii) for the “Ad Engage” display advertising product, a three (3) second mouse-over or a click to expand; and (iv) for the “Video Snackbar” mobile advertising product, a click to expand. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential’s measurement of impressions and engagements will be the basis for all invoicing. If a third party ad server is used for measuring impressions or engagements, Advertiser must provide Exponential with a working ad server login prior to the first campaign start date; provided that, for “Ad Engage” in-stream campaigns only, such login must be provided no later than three (3) days prior to the first campaign start date. If Exponential is not provided with a working login prior to the first campaign start date (or, for “Ad Engage” in-stream campaigns only, no later than three (3) days prior to the first campaign start date), Exponential’s measurement of impressions and engagements will be the basis for all invoicing despite anything to the contrary in the IO.
   3. **Payment:** Advertiser will pay Exponential for all impressions and engagements delivered. Exponential will invoice Advertiser at the end of each month in which the CPME campaign described in the IO runs. Advertiser will pay Exponential within 30 days from the invoice date. If the difference between Exponential’s measurement and Advertiser’s measurement of delivered impressions exceeds ten percent (10%), or if the difference between Exponential’s measurement and Advertiser’s measurement of delivered engagements exceeds ten percent (10%), Advertiser must notify Exponential of the discrepancy within five (5) business days of Advertiser’s receipt of Exponential’s invoice and the parties will make prompt and good faith efforts to resolve the discrepancy; however, providing notice of the discrepancy does not relieve Advertiser of its obligation to pay Exponential for impressions or engagements not in dispute. Once the discrepancy is resolved, any additional amounts determined to be due will be paid by Advertiser within ten (10) days of Exponential’s request for payment. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   4. **Cancellation:** The campaign will end when budget is exhausted unless a) the IO has a specific end date, or b) the campaign is cancelled. Exponential or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice. If Advertiser cancels IO before all budgeted impressions or all budgeted engagements are delivered, Advertiser will be invoiced based on the CPM or CPE (as applicable) published on Exponential’s then-current rate card.
7. **CPCVE Campaigns:** This Clause 7 applies only to campaigns packaged on a cost per completed view/engagement (CPCVE) basis.
   1. **Ad Units:** Exponential will provide all creative ad units for the campaign.
   2. **Delivery and Measurement:** Exponential will make reasonable commercial efforts, but does not guarantee, to deliver the total number of completed views and engagements shown on the IO. Engagements and completed views will result from the same ad execution. CPCVE budget allocations to CPE and CPCV line items are estimates based on performance benchmarks. Final billable amounts will be reconciled at the end of the CPCVE campaign; provided that the final billable amounts will not exceed the total budget for the CPCVE campaign stated in the IO. An engagement is defined for the “VDX In-Stream or Interactive Pre-roll” advertising product as a three (3) second mouse-over or a click to expand. Exponential will further use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable. Unless otherwise specified in the IO, Exponential’s measurement of completed views and engagements will be the basis for all invoicing. If a third party ad server is used for measuring completed views or engagements, Advertiser must provide Exponential with a working ad server login prior to the first campaign start date. If Exponential is not provided with a working login prior to the first campaign start date, Exponential’s measurement of completed views and engagements will be the basis for all invoicing despite anything to the contrary in the IO.
   3. **Payment:** Advertiser will pay Exponential for all completed views and engagements delivered. Exponential will invoice Advertiser at the end of each month in which the CPCVE campaign described in the IO runs. Advertiser will pay Exponential within 30 days from the invoice date. If the difference between Exponential’s measurement and Advertiser’s measurement of delivered completed views exceeds ten percent (10%), or if the difference between Exponential’s measurement and Advertiser’s measurement of delivered engagements exceeds ten percent (10%), Advertiser must notify Exponential of the discrepancy within five (5) business days of Advertiser’s receipt of Exponential’s invoice and the parties will make prompt and good faith efforts to resolve the discrepancy; however, providing notice of the discrepancy does not relieve Advertiser of its obligation to pay Exponential for completed views or engagements not in dispute. Once the discrepancy is resolved, any additional amounts determined to be due will be paid by Advertiser within ten (10) days of Exponential’s request for payment. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   4. **Cancellation:** The campaign will end when budget is exhausted unless a) the IO has a specific end date, or b) the campaign is cancelled. Exponential or Advertiser may cancel the IO at any time for any reason upon forty-eight (48) hours’ notice. If Advertiser cancels IO before all budgeted completed views or all budgeted engagements are delivered, Advertiser will be invoiced based on the CPCV or CPE (as applicable) published on Exponential’s then-current rate card.
8. **Site Roadblock Campaigns:** This Clause 8 applies only to site roadblock campaigns.
   1. **Delivery and Measurement:** The number of impressions delivered during a Site Roadblock campaign is dependent on site traffic during the period of time in which the Site Roadblock is in place and is not guaranteed. Exponential will use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable.
   2. **Payment:** Site Roadblocks are sold on a flat fee basis, not on a CPM basis. Exponential Interactive will invoice Advertiser at the end of each month in which the ad campaign described in the IO runs. Advertiser will pay Exponential Interactive within 30 days from the invoice date. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   3. **Cancellation:** Site Roadblock campaigns are non-cancelable and non-changeable 15 days prior to the scheduled roadblock date.
9. **Sponsorship Campaigns:** This Clause 9 applies only to sponsorship campaigns.
   1. **Delivery and Measurement:** The number of impressions delivered during a sponsorship campaign is dependent on site traffic during the period of time in which the sponsorship is in place and is not guaranteed. Exponential will use commercially reasonable efforts to support and comply with the IAB ads.txt initiative for inventory sourced under the IO, as applicable.
   2. **Payment:** Sponsorships are sold on a flat fee basis, not on a CPM basis. Exponential Interactive will invoice Advertiser at the end of each month in which the ad campaign described in the IO runs. Advertiser will pay Exponential Interactive within 30 days from the invoice date. Late payments shall bear interest at the rate of 2% per month, or if less, the highest rate permitted by law. Advertiser shall be responsible for the cost of collecting past due amounts.
   3. **Cancellation:** Sponsorship campaigns are non-cancelable.
10. **Creative Developed by Exponential Interactive:** If Exponential Interactive is developing creative for any campaign, (a) all such creative shall be subject to approval of Advertiser prior to use by Exponential Interactive; (b) Exponential Interactive shall retain ownership of all such creative; and (c) the creative shall not be used by Advertiser outside of any Exponential Interactive-managed campaign.
11. **Ad Submission and Trafficking:** Unless different responsibilities for creative or submission deadlines apply to a campaign as set forth above, Advertiser will provide one or more creative ad units for the campaign and, in order for the campaign to start on time, creative ad unit(s) must be received at least three (3) business days (five (5) business days for Rich Media creative) prior to the campaign start date. Advertiser acknowledges that Exponential Interactive has no responsibility, but shall have the right, to review the Advertiser’s creative for compliance with Exponential Interactive’s standards and to reject any non-compliant creative. Exponential Interactive shall make modifications to creative for an ongoing campaign within two (2) business days of receipt of a written request to modify the creative. If the IO indicates Automatic Campaign Extension, Advertiser grants Exponential Interactive the right to extend the end date of the Campaign as necessary to fully deliver the contracted impressions specified in the IO.
12. **Content and Placement of Ads**
    1. Advertiser undertakes that it is, and will continue to remain, entitled to place, and to authorise Exponential Interactive to place, each Ad in accordance with these Terms and the IO.
    2. Advertiser undertakes that each Ad, all of its content and any web-sites or other properties linked to from it do not and will not appear to (a) infringe any applicable law, rule, regulation, standard or code (including, without limitation, any promulgated by the United Kingdom Advertising Standards Authority or any equivalent entity in any jurisdiction in which such advertisement is accessible), (b) infringe the intellectual property (including, without limitation, copyright) or other rights of any person or entity, nor require payment (including mechanical royalty or performing rights payments for use of music, union payments, rental right payments, author royalties or trade mark royalties) to be made, (c) infringe exclusive sponsorship rights, whether in relation to a sporting event or competition or otherwise, apparently held by a third party, (d) fail to conform to restrictions on the material that may appear therein, as expressed in the IO or in any communication received by the Advertiser from Exponential Interactive, whether in writing, by email or orally, or (e) contain any virus, worm, Trojan horse or other contaminant that may be used to access and modify, delete or damage any data file or other computer program.
    3. Advertiser agrees to indemnify and keep indemnified Exponential Interactive and the proprietor of the relevant Media (the “Publisher”), and their respective officers and employees, against all claims, demands, liabilities, costs and expenses, including reasonable legal fees on a solicitor and client basis, arising in connection with any breach of sub-Clause 12.1. or 12.2 above, or of any other provision of the Agreement.
    4. Exponential Interactive shall be entitled to remove from Media without notice any Ad that appears (in Exponential Interactive’s or any notifying person’s opinion) to contravene sub-Clause 12.1. or 12.2 above.
    5. In addition, Advertiser acknowledges that the content of each Ad is subject to the approval of Exponential Interactive and of Publishers, which may reject an Ad, and that Exponential Interactive and Publishers shall be entitled to reject links embodied within an Ad.
    6. Exponential will make reasonable commercial efforts to minimize the risk of Ads being displayed alongside inventory which has been identified by Advertiser in advance of a campaign as inappropriate, whether such inventory is sourced directly and/or indirectly. Such efforts may, if agreed upon by the parties in the applicable Insertion Order, include schedules of inappropriate/appropriate inventory or the use of independently-certified content verification tools in addition to Exponential’s proprietary targeting technologies. Unless prohibited or limited by the terms of the applicable Insertion Order, all campaigns will comply with the brand safety guidelines found at http://exponential.com/our-company/safety-guidelines/.
    7. Exponential will provide a publisher site list to Advertiser upon request, except to the extent that Exponential's contractual commitments with specific publishers prohibit their disclosure. Specific inventory restrictions must be agreed upon prior to the commencement of the applicable Ad campaign. Exponential will, with reasonable advance notice, accommodate changes in inventory restrictions requested by Advertiser after the commencement of an Ad campaign; provided that Exponential shall not be obligated to accommodate changes in inventory restrictions which will, in Exponential’s reasonable business judgment, result in poorer Ad campaign performance.
13. **Data**
    1. The data generated by Exponential Interactive 1x1 pixels – including those placed by the Advertiser – are used by Exponential Interactive for the targeting and optimizing of Advertising.
    2. Subject to sub-Clause 13.1 above, Exponential Interactive will not disclose or sell the data it gathers from pixels placed by the Advertiser to, or such data for the benefit of, any of its other advertiser clients, save with the Advertiser’s consent.
14. **Promotional Materials and Press Releases:**
    1. Exponential Interactive will have the right to include Advertiser (and reference its trade names, trademarks, and service marks) in any marketing or other promotional materials, excluding press releases (which are governed by sub-Clause 14.2 below), related to the Agreement (the "Promotional Materials"). Exponential Interactive will have the right to continue using such approved Promotional Materials during the term of the Agreement.
    2. During the Term of the Agreement, each party will have the right to include the other party's name in a press release announcing the entry into of the Agreement, subject to the other party's prior written approval. All press releases will be mutually approved by the parties prior to their release.
15. **Restrictions**
    1. Advertiser may not resell, assign or transfer any of its rights (including, without limitation, the right to place any Ad) or obligations under the Agreement without Exponential Interactive’s prior written consent.
    2. Each party shall comply with such duties (including, without limitation, any as to privacy, confidentiality or data protection) as it may owe in respect of any information that comes into its possession or control in connection with any Advertising or other activity conducted under an IO.
16. **Objectives**
    1. Except as may be contained expressly in an IO, Advertiser acknowledges that:
       1. no undertaking is given as to the number of Impressions that may occur in relation to any Ad; and
       2. any proposed objectives, target audience or proposed tactics are indicative only, and Exponential Interactive does not commit to them.
17. **Confidentiality**
    1. Each party (“Disclosee”) shall keep confidential all Confidential Information of the other party (“Discloser”) and shall not disclose any such Confidential Information save to such employees, agents or sub-contractors of the Disclosee who need to know the same for the purposes of the Agreement.
    2. For the purposes of this Clause, "Confidential Information" means all information which is expressed to be or ought reasonably to be regarded as the confidential information of the Discloser (including, without limitation, business or financial details and arrangements of the Discloser).
    3. Advertiser shall permit Exponential Interactive to conduct advertising research using data provided by or relating to Advertiser, to be used in aggregate. Advertiser will receive top-line reports on all such research which is conducted for the benefit of Exponential Interactive’s network of advertiser clients.
18. **Warranties**
    1. Save to the extent that they are expressed in the Agreement, all representations, conditions, warranties and terms relating to the services provided by Exponential Interactive under or in connection with the Agreement (whether statutory or otherwise, and including, without limitation, any as to the fitness for a particular purpose, satisfactory quality or merchantability of any thereof) are hereby excluded by Exponential Interactive to the fullest extent permitted by law.
19. **Limitation of Liability**
    1. Nothing in the Agreement limits Exponential Interactive's liability for death or personal injury resulting from Exponential Interactive's negligence.
    2. If any Ad is run incorrectly or not in accordance with the relevant IO, then Exponential Interactive’s entire liability and Advertiser’s entire remedy shall be for Exponential Interactive to arrange for the relevant Ad to be re-run substantially in accordance with that IO (save for any timing requirements contained in it).
    3. Except for liability arising or dealt with under sub-Clause 19.1 or 19.2 above, Exponential Interactive's aggregate liability arising under or in connection with the Agreement (whether such liability arises from negligence, breach of contract or howsoever) shall not exceed the greater of: (i) the total amounts payable by Advertiser under the relevant IO; and (ii) £5,000; provided that in no event will Exponential Interactive be liable to Advertiser or any other person for or in respect of any indirect or consequential loss or damage, or for any loss of data, profit, revenue, contracts or business, howsoever caused (whether arising out of any breach of the Agreement, any negligence of Exponential Interactive or any other person or otherwise), even if the same was foreseeable by, or the possibility thereof is or has been brought to the attention of, Exponential Interactive.
20. **Termination**
    1. Exponential Interactive may immediately terminate the Agreement upon notice to Advertiser in the event of default by Advertiser in the payment of any invoice or any other breach of these Terms or the (or any other then-current) Agreement. Upon such termination, all sums payable by Advertiser to Exponential Interactive under the Agreement shall become immediately due and payable.
    2. Termination of the Agreement shall not release Advertiser from its obligation to make payment for each Ad that has been displayed, or for other charges that have been incurred prior to the date such termination becomes effective.
    3. Advertiser may terminate the Agreement immediately on written notice to Exponential Interactive in the event that Exponential Interactive is in material breach of these Terms, and such breach remains unremedied within thirty days after written notice given by Advertiser specifying the breach and requiring its remedy.
    4. Any termination of the Agreement shall be without prejudice to any rights accrued in favour of either party in respect of any breach committed prior to the date of (or giving rise to) such termination and to those provisions of the Agreement which are by their construction intended to survive such termination.
21. **Notices**
    1. All notices and other communications to be given under these Terms or the Agreement shall be given in writing to either party at the address or email address specified in the IO. All notices shall be deemed given within one day after dispatch (in the case of notice by email, provided proof of sending of the email is retained and provided to the recipient party upon request) or three working days after dispatch (in the case of notice given by first class, recorded delivery post, provided proof of sending is retained). The Advertiser agrees to the use of email for the purposes referred to in these Terms and that it will be bound by all email, and consents or indications of agreement contained in email, sent or received by persons purporting to act on behalf of the Advertiser.
22. **Entire Agreement**
    1. The Agreement contains the entire agreement and understanding between the parties with respect to the subject matter thereof, and (in relation to such subject matter) supersedes all prior discussions, understandings and agreements between the parties and their agents (or any of them) and all prior representations and expressions of opinion by either party (or its agents) to the other party (or its agents), save that neither party shall limit or exclude or be deemed to limit or exclude any fraud or fraudulent representation by that party (or its agents) to the other party (or its agents) by this Clause.
23. **Various**
    1. If any provision of the Agreement is or becomes invalid or illegal in any respect such provision shall be deemed to be severed from the Agreement but the validity, legality and enforceability of the remaining provisions of the Agreement shall not be affected or impaired thereby.
    2. A failure by either party to exercise and any delay forbearance or indulgence by either party in exercising any right, power or remedy under the Agreement shall not operate as a waiver of that right, power or remedy or preclude its exercise at any subsequent time.
    3. Exponential Interactive shall be entitled to sub-contract the performance of any of its obligations under the Agreement, and (provided it notifies Advertiser thereof) to assign all or any of its rights and obligations under the Agreement.
    4. Advertiser shall not assign or otherwise transfer any of its rights and obligations under the Agreement to any other person without the prior written consent of Exponential Interactive.
    5. The Clause headings in the Agreement are included for convenience only and shall not affect the construction of the Agreement.
    6. Nothing in an IO shall prevail over any these Terms unless it is expressly stated to do so in the IO.
    7. Words and phrases accorded a particular meaning in any Clause shall (unless the context otherwise requires) be accorded that meaning when they appear elsewhere in the Agreement.
    8. Neither party shall be liable for any breach of the Agreement that results from matters beyond such party’s reasonable control, provided that both parties shall work together to ameliorate the effects thereof.
24. **Governing Law**
    1. The Agreement shall be governed by English law.
    2. All disputes arising out of or in connection with the Agreement shall be subject to the non-exclusive jurisdiction of the Courts of England.