

## Ad-ID User Agreement

THIS IS A BINDING AGREEMENT. IT AFFECTS YOUR RIGHTS AND THOSE OF YOUR ORGANIZATION. PLEASE READ IT CAREFULLY BEFORE PROCEEDING.

This agreement ("Agreement") sets forth the terms and conditions under which Advertising Digital Identification, LLC ("Ad-ID," "we" or "us") offers to your organization ("Licensee" or "you") access to the Advertising Digital Identification System (as defined below). In order to access the Advertising Digital Identification System, your organization and you individually must accept and abide by the terms and conditions of this Agreement. If your organization has not previously entered into the Ad-ID User Agreement, your organization accepts the terms and conditions of this Agreement, and this Agreement becomes effective, when (i) you enter your initials on the Ad-ID User Agreement page of the Ad-ID Website (as defined below) and click "I agree," or (ii) any person within your organization accesses or uses the Advertising Digital Identification System. If your organization has previously entered into the Ad-ID User Agreement, you must acknowledge your understanding and acceptance of your responsibilities under this Agreement by entering your initials on the Ad-ID User Agreement page of the Ad-ID Website and clicking "I agree."

IF YOU ARE NOT AUTHORIZED BY YOUR ORGANIZATION TO BIND IT TO THIS AGREEMENT OR IF YOU ARE UNSURE WHETHER YOU ARE AUTHORIZED, DO NOT ENTER YOUR EMAIL ADDRESS, CLICK "I AGREE," OR ACCESS OR USE THE ADVERTISING DIGITAL IDENTIFICATION SYSTEM.

Ad-ID and Licensee, in consideration of the mutual promises contained herein and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, agree follows:

### 1. Definitions.

The following terms shall, for purposes of this Agreement, have the following meanings:

1.01 "Ad-ID Website" shall mean the website we operate at which the Advertising Digital Identification System is available, currently <<http://www.ad-id.org>>.

1.02 "Advertising Digital Identification System" shall mean the system we make available for identifying advertising assets and associated information.

1.03 "Agency" shall mean an advertising agency, such as an advertising agency that is or could be a member of the American Association of Advertising Agencies.

1.04 "Client" shall mean an advertiser, such as an advertiser that is or could be a member of the Association of National Advertisers, Inc.

1.05 "Registration Information" shall mean the information you submit to us in order to commence your access to the Advertising Digital Identification System, usually via the New Company-Group Form, and Registration Information shall include all revisions and updates to that information that you provide from time to time.

1.06 "System" shall mean the Advertising Digital Identification System.

1.07 “Vendor” shall mean a person or entity that is in the business of providing goods or services to an Agency or a Client in relation to advertising assets of that Agency or Client that are included in the System.

## **2. Advertising Digital Identification System.**

2.01 Access and Use. We make the Advertising Digital Identification System available at the Ad-ID Website as set forth in this Agreement. Subject to the terms of this Agreement, the System is generally available to users 24/7 upon entering a user name (email address) and password. When a user creates a record of an advertising asset in the System, the System generates a unique identifying code for that asset to facilitate identification of the asset across multiple media. Additional information associated with the asset may also be entered and updated, and these various records may be searched.

2.02 Permitted Users. The System may be accessed and used by Agencies, Clients, and Vendors solely pursuant to the terms of this Agreement. A record of an advertising asset may be created in the System by or for an Agency or a Client. An Agency may designate its Client as permitted to access a record created by the Agency, and a Client may designate its Agency as permitted to access a record created by the Client. An Agency or a Client may authorize its Vendor to access such records, provided that the Agency or Client so authorizing the Vendor shall at all times remain liable for the conduct of the Vendor in relation to the System as if the conduct were carried out by the authorizing Agency or Client itself. Your Agencies, Clients, and all Vendors are bound by the terms and limitations of this Agreement as if they were you, but Ad-ID may in all instances look to you and hold you accountable for their performance or non-performance. (In order to protect your interests vis-à-vis those parties, you may wish to create a separate agreement between you and them.) No other access to the System is permitted.

2.03 Administrators. Each Agency and Client organization may designate one of its employees/agents as administrator for its System account by identifying such person to Ad-ID where indicated in the Ad-ID Website. The administrator may allow access to other employees/agents within his or her organization or to appropriately authorized third parties. The administrator may specify the access privileges of users (e.g. read-only, modify records, etc.). Such employees/agents are bound by the terms of this Agreement, regardless of whether they independently enter into or manifest assent to this Agreement.

2.04 Registration; Updates. If your organization has not previously entered into the Ad-ID User Agreement, you must complete our New Company-Group Form, which is currently available at <[https://www.ad-id.org/login/signup\\_form.cfm](https://www.ad-id.org/login/signup_form.cfm)>, before access to the System will be permitted. You must provide complete and accurate information; you are not authorized to access or use the System if you fail to do so. You must keep your Registration Information up to date; you are not authorized to access or use the System if you fail to do so. You may update your Registration Information via the Ad-ID Website at the following page, <[https://www.ad-id.org/members/edit\\_profile.cfm](https://www.ad-id.org/members/edit_profile.cfm)>.

2.05 Searches; Information Available. The System enables you and your associated Clients and/or Agencies and/or Vendors to search and sort information associated with the records created by your Client or Agency. The System enables such parties to use unique identifying codes to specifically identify and describe advertising assets. The identifying codes may be embedded by you or by entities associated with you in digital media files, facilitating identification of and accounting for such files. You may not use the System to search for records related to advertising assets that were created by or on behalf of agencies, clients, or other third parties with whom you do not have a direct relationship.

2.06 Maintenance. You understand that from time to time the System may be inaccessible or inoperable for any number of reasons, including without limitation routine maintenance, equipment or software malfunctions, and causes beyond the control of Ad-ID. Ad-ID will undertake to notify you of such inaccessibility and/or inoperability by posting a notice on the Ad-ID Website and/or by sending an email message to you. Ad-ID does not guaranty, however, that any such notice will be posted or sent.

2.07 Support. Ad-ID provides customer support by telephone and email during its ordinary business hours, but Ad-ID does not warrant that its employees will be able to resolve all inquiries or solve all problems. Ad-ID is not responsible for any hardware or software you may need to access the Ad-ID Website or the System, and Ad-ID is not responsible for providing advice relating to codes used by the System, industry processes, media requirements, or the like.

2.08 Privacy. Ad-ID has adopted a privacy policy that relates to its handling of data submitted to the System, as well as data collected by the System. The privacy policy is currently available at < <http://www.ad-id.org/help/privacy.cfm>>. By entering this Agreement, you agree to the terms of the privacy policy.

### **3. Fees / Rates.**

3.01 Ad-ID Rate Card. Any and all use of the System by you, your Agencies, your Clients, and/or any Vendors is subject to timely payment of all applicable fees, including interest if applicable pursuant to paragraph 3.02. Fees are set forth on the Ad-ID Rate Card, which may currently be accessed by following a link on this page: <<http://www.ad-id.org/help/cost.cfm>>. Ad-ID reserves the right to change its fees upon sixty (60) days notice. Fees do not include any taxes, duties, or levies of any governmental authority relating to this Agreement or the System, other than taxes on Ad-ID's income; you are responsible for payment of all such taxes, duties, and/or levies.

3.02 Interest / Termination. Ad-ID reserves the right to charge interest on any past due amounts. Without limiting any other right herein, Ad-ID may terminate or suspend access to the System in the event of non-payment or late payment.

### **4. Confidentiality / Restrictions.**

4.01 Confidentiality. Ad-ID shall consider information that you enter into the System to be your Confidential Information, within the meaning of this paragraph. You shall consider the System and all of its displays, screens, configurations, and all information appearing on or displayed in connection with them to be Confidential Information of Ad-ID. A party may also provide Confidential Information to the other by means of physical or electronic documents (including email) that are marked "Confidential." Each party shall use all reasonable efforts to protect the Confidential Information of the other, and in any event, shall use no less than reasonable care to do so. "Confidential Information" shall not include information that (i) is or subsequently becomes publicly available without the receiving party's breach of any obligation owed the disclosing party; (ii) became known to the receiving party prior to disclosure of such information by the disclosing party; (iii) became known to the receiving party from a source other than the disclosing party and other than by the breach by a third party of a confidentiality obligation owed to the disclosing party; or (iv) is independently developed by the receiving party. A receiving party may disclose Confidential Information in accordance with a judicial or other governmental order, provided the receiving party shall (unless prohibited by law) first give the disclosing party reasonable written notice so as to enable the disclosing party to seek a protective order or similar limitation on disclosure.

4.02 Acknowledgement. You acknowledge that the System and the Ad-ID Website, as well as their displays, screens, configurations and all information appearing on or displayed in connection with them, are, as between you and Ad-ID, the sole and exclusive property of Ad-ID. You further acknowledge that Ad-ID's trademarks, logos, and domain names are, as between you and Ad-ID, the sole and exclusively the property of Ad-ID. You agree that you will not infringe upon, misappropriate, or challenge Ad-ID's rights in relation to any of them.

4.03 Restrictions. You agree, on your own behalf and on behalf of your Agencies, your Clients, and any Vendors, that you/they will not introduce a virus, worm, Trojan horse, or other computer programming code that may damage, compromise security, or interfere with the proper operation of the System or the Ad-ID Website, and further that you/they will not attempt to circumvent any security protocol (including usernames/passwords) of the System. You agree, on your own behalf and on behalf of your Agencies, your Clients, and any Vendors, that you/they will not modify, adapt, translate, prepare derivative works, decompile, reverse engineer, disassemble or otherwise attempt to derive source code of or from the System. In the event that, notwithstanding the terms of paragraph, you create any derivative work of the System or the Ad-ID Website, you hereby assign it to Ad-ID. You agree, on your own behalf and on behalf of your Agencies, your Clients, and any Vendors, that you/they will not remove, obscure, or alter any proprietary rights notice contained in or associated with the System or the Ad-ID Website.

## **5. Disclaimers / Limitations of Liability.**

5.01 No Warranty. YOU AGREE, ON YOUR OWN BEHALF AND ON BEHALF OF YOUR AGENCIES, CLIENTS, AND VENDORS, THAT ALL USE OF THE SYSTEM IS ENTIRELY AT YOUR OWN RISK. THE SYSTEM IS PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY RELATING TO (i) TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR PARTICULAR PURPOSE; (ii) INFORMATION, INFORMATIONAL CONTENT, OR COMPLETENESS, OR INFORMATIONAL ACCURACY; (iii) THE QUALITY, SUITABILITY, ACCURACY, FUNCTIONALITY, OR OPERATION OF THE SYSTEM; OR (iv) UNINTERRUPTED ACCESS. Ad-ID DOES NOT VERIFY OR WARRANT THE ACCURACY OF ANY INFORMATION SUBMITTED TO THE SYSTEM.

5.02 Limitation of Liability. NEITHER Ad-ID NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, NOR ANY OF ITS AFFILIATES, CONTRACTORS, OR SYSTEM PROVIDERS (TOGETHER THE "Ad-ID PARTIES") SHALL BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DAMAGES ARISING OUT OF OR ALLEGED TO ARISE OUT OF THE USE OF, OR INABILITY TO USE, THE SYSTEM. YOU AGREE, ON YOUR OWN BEHALF AND ON BEHALF OF YOUR AGENCIES, CLIENTS, AND VENDORS, TO RELEASE AND HEREBY DO RELEASE ALL Ad-ID PARTIES FROM ANY LIABILITY FOR ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE THAT ANY PARTY MAY SUFFER OR ALLEGE TO HAVE SUFFERED IN RELATION TO THE SYSTEM. NO Ad-ID PARTIES SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OR ANY LOSS OR CORRUPTION OF DATA ARISING IN RELATION TO THE SYSTEM. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IF ANY PERSON BECOMES ENTITLED TO RECOVER ANY DAMAGES FROM ANY Ad-ID PARTIES NOTWITHSTANDING THIS PARAGRAPH, THE MAXIMUM AMOUNT OF SUCH RECOVERY SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY YOU DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE CIRCUMSTANCES GIVING RISE TO LIABILITY. THESE EXCLUSIONS AND LIMITATIONS ON LIABILITY SHALL APPLY EVEN IF ALL REMAINING REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

5.03 Indemnity. You agree to indemnify, defend, and hold the Ad-ID Parties harmless from and against any and all claims, actions, investigations, judgments, settlements, penalties, costs and expenses (including attorneys' fees) arising in connection with (i) the use of the System by you, your Agencies, your Clients, and/or any Vendors and (ii) the handling and/or storage by Ad-ID of information that you, your Agencies, your Clients, or any Vendors enter into the System. This indemnity obligation shall not apply to the extent liability arises as a result of a breach of this Agreement by Ad-ID or a claim by a third party that the System (and not any data or information added by or for you) infringes the intellectual property rights of such party. If you fail to defend the Ad-ID Parties after receipt of a written demand to do so, one or more Ad-ID parties may defend and/or settle the claim, action, or investigation and invoice you or have you invoiced for the amounts due.

## **6. Miscellaneous.**

6.01 Term and Termination. Ad-ID may terminate this Agreement, including any access to the System by you, your Agencies, your Clients, and any Vendors, in the event of a material breach of this Agreement by any of them. Ad-ID shall provide you with written notice of any such breach, and you shall have thirty (30) days to remedy it, failing which the Agreement shall terminate immediately. Ad-ID reserves the right to suspend or terminate the access of any person or organization to the System with or without notice when Ad-ID believes in good faith that it is necessary to do so to preserve the proprietary rights, property, or safety of any person or organization or to preserve the integrity or security of the System. Either party may terminate the Agreement for convenience by providing the other party with sixty (60) days' written notice.

6.02 Termination of Users. Without limitation of any of its other rights and remedies under this Agreement, Ad-ID reserves the right to terminate access privileges of any user, such as where the user has engaged in prohibited or unauthorized activity or has failed to meet his or her obligations in using the System. Following such termination, you may not assign a new username or other identity to such person so as to enable the person to regain access to the System.

6.03 Effect of Termination. Upon termination of this Agreement for any reason, you, your Agencies, your Clients, and any Vendors shall cease all use of the System. You, on behalf of yourself as well as your Agencies, your Clients, and any Vendors, shall within thirty (30) days of termination return to Ad-ID all of its Confidential Information, or upon the request of Ad-ID certify in writing the destruction of such information. After termination, Ad-ID shall have no obligation to store or maintain information you have entered into the System.

6.04 Notice. Any notice required or permitted to be given to Ad-ID hereunder shall be sent by first class mail, with return receipt, to American Association of Advertising Agencies, 405 Lexington Avenue, 18<sup>th</sup> Floor, New York, NY, 10174, Attention: Ad-ID Managing Director, with a copy by email to <legal@ad-id.org>. Any notice required or permitted to be given to you hereunder shall be sent to the email address in your Registration Information.

6.05 Headings. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and are neither a part of it nor should be used to interpret it.

6.06 Severability. If any provision of this Agreement is deemed by a court of competent jurisdiction to be invalid, void, unenforceable, or against public policy, such provision shall be revised by the court to approximate most closely the intent of the parties while remaining within the confines of the law. The remainder of this Agreement shall remain in full force and effect.

6.07 Assignment. You may not assign or delegate this Agreement, or any of your rights or obligations hereunder, without the prior written consent of Ad-ID, except that you may assign this Agreement in its entirety to a party that agrees in writing to be bound by the terms of this Agreement and is capable of performing hereunder. You must provide a copy of such writing to Ad-ID within five (5) business days of any such assignment.

6.08 Survival. The following provisions shall survive any termination of this Agreement: Section 1, paragraph 2.02 (as it relates to your accountability for your Agencies, Clients, and Vendors), paragraph 2.08, Section 3, Section 4 (for a period of three (3) years following termination, Section 5, and Section 6.

6.09 Choice of Law. This Agreement will be governed by the laws of the State of New York without regard to its choice of law provisions or rules. The courts sitting in New York County, New York shall have exclusive jurisdiction over any dispute arising out of or in connection with this Agreement. The parties hereby submit to the jurisdiction of such courts and waive any objection based on venue or the convenience of the parties or witnesses.

6.10 Complete Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral. This Agreement supersedes and takes precedence over any contrary terms or provisions on the Ad-ID Website or any Ad-ID documentation.

6.11 No Waiver or Modification. No obligation under this Agreement shall be deemed to have been waived by any act or acquiescence on the part of either party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision or of the same provision on another occasion. This Agreement may only be modified by a later written instrument signed by both parties, except that Ad-ID may modify this Agreement by providing thirty (30) days' notice to you; you may, at any time before the end of such notice period, provide written notice of termination of this Agreement to Ad-ID, and Ad-ID will thereafter refund a pro rata portion of the fees you have paid but will not have used by the end of such period.