



**STANDARD TERMS AND CONDITIONS
AND LATE CREATIVE POLICY
EDUCATIONAL DOCUMENT**

MARCH 2008

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IAB CANADA STANDARD TERMS AND CONDITIONS AND LATE CREATIVE POLICY FOR INTERNET ADVERTISING FOR MEDIA BUYS ONE YEAR OR LESS – March 1, 2008

EXECUTIVE SUMMARY

Why Were The Standard Terms + Conditions and Late Creative Policy Documents Created?

For over a year, the Interactive Advertising Bureau of Canada (IAB), has worked with its Agency and Publisher members to develop a set of Standard Terms and Conditions (Ts+Cs) and Late Creative Policy designed to help Advertisers, Agencies and Publishers increase efficiencies in Online media planning, buying, implementation, invoicing and payment.

Traditional media such as TV, Newspapers, Magazines, Radio and Out of Home have a long history of established Terms and Conditions including fixed invoicing and payment dates, as well as Late Creative policies.

While the Online advertising industry in Canada is just over 10 years old, Canadian Online advertising revenue surpassed the \$1 billion mark in 2006, and is slated to continue to grow by leaps and bounds over the next few years. As more and more Advertisers have moved greater portions of their marketing budgets to the Web, and altogether new Advertisers have entered the space -- resources for both Publisher and Agency stakeholders have become strained. And, because new ad formats (including Rich Media and Video), and new ad technologies (including frequency capping, geo-targeting and behavioural targeting), have added to the process of testing, trafficking, reporting and invoicing for Online campaigns -- a new framework for managing the process was required.

Previous to the development of the IAB Canada Standard Terms and Conditions and Late Creative Policy, Canadian Online Publishers have each used their own individual Ts+Cs to attempt to solve the problem, and outline who did what in the process, but with inconsistent application and adherence. A consistent protocol that lined up to U.S. and U.K. IAB standards as closely as possible, while still respecting Canadian market differences and capabilities was also needed.

Key Elements of new Agency/Publisher-brokered IAB Canada Standard Ts+Cs and Late Creative Policy are:

- **Campaign Cancellation Terms:** Minimum 10 business day notice of cancellation, with a sliding scale of cost implications for less than 10 business day notice.
- **Late Creative Deadlines:** Standard Banner ads are required to be submitted to Online Publishers at least 3 days prior to campaign launch; Rich Media and Video ads are required to be submitted to Online Publishers at least 5 days prior to campaign launch. NOTE: If an Advertiser or Agency is using a 3rd Party Ad Server or Rich Media or Video vendor external to the agency/agency ad server to deliver and track their Online ad campaign, it is recommended that final, Advertiser-approved, fully-functional creative of all types be delivered to the external 3rd Party Ad Serving/vendor company at least 10 days prior to the start of the campaign as set out in the original campaign Insertion Order (IO), to allow for any additional external ad server/vendor testing and tagging.
- **Responsibility For Space/Impressions:** If final, Advertiser-approved, fully-functional creative is not received by the Online Publisher according to the due dates above, the Advertiser and their Agency are still responsible for the media purchased, pursuant to the Insertion Order -- or up to the point where campaign has been cancelled -- and will be billed accordingly. The Online Publisher does not "owe" the Advertiser/Agency any impressions missed while creative is late or missing altogether.
- **Stand-In Creative:** While late creative is being developed or repaired, the Advertiser has the option to run a "STAND-IN GIF OR JPG AD" until the originally-intended creative can be trafficked into the purchased space. If the Advertiser/Agency does not supply their own "STAND-IN GIF OR JPG AD" -- because the Advertiser still "owns" the booked space/impressions (and the Publishers is not allowed to resell these) -- in order to make sure the space is filled, the Online Publisher can run an IAB-approved, "STAND-IN PSA AD" in its place.
- **Reporting:** The Online publisher will append proof of campaign performance to every invoice, and include results for "STAND-IN GIF OR JPG AD" or "STAND-IN PSA AD" creative in their delivery reports, within reporting guidelines as outlined in IO.
- **Billing:** The Advertiser and their Agency will be billed for the original, full, contracted amount of impressions pursuant to the original IO, which may include any or all "STAND-IN GIF OR JPG AD" or "STAND-IN PSA AD" impressions, as a result of late creative.
- **Payment Terms:** In concert with all other traditional media, payment for Online advertising campaigns is due 30 days from receipt of invoice.
- **Effective Date:** While Online Publishers can immediately use the IAB Canada Standard Ts+Cs and Late Creative document in their day-to-day business practices, in order to allow Advertisers and Agencies time to adjust their processes and procedures, **the IAB Canada Late Creative Policy within the document, will not come into full effect until March 1, 2008.** During the interim period between the IAB Canada announcement of the Ts + Cs and Late Creative Policy and the actual date the Late Creative Policy comes into effect -- **just over five months** -- Online Publishers (at their own discretion), will monitor and report to Advertisers and their Agencies on "costs" (in terms of lost



impressions and lost campaign dollars), that would have been incurred from creative that arrives late during the five-month “adjustment” period.

The initiative has widespread industry support. The following is a list of IAB Canada Member Publishers who have agreed to fully support and enforce the documents:

24/7 RealMedia	Microsoft Canada
The 50Plus Group	Networld Media
Alliance Atlantis	Now Magazine
Astral Media Radio Interactif	Osprey Internet Media
Branchez-vous!	Pelmorex Inc. (The Weather Network/Météo Média)
Canadian Geographic	Radio-Canada.ca
Canoe Inc.	Rogers Media
CanWest Media Inc.	St. Joseph’s Media
Casale Media	Standard Interactive
CHUM Interactive	Sympatico / MSN
Corus Entertainment Inc.	Torstar Digital, Olive Network, Workopolis
CTV	Transcontinental Inc.
Cyberpresse	Tribal Fusion
The GlobeandMail.com	TSX.com
Heavy Canada	Urbacom-Voir.ca
IT World Canada Inc	Yahoo! Canada

How will it work?

The Terms and Conditions and Late Creative documents are meant to be used in their entirety, as one document. Publishers who are relatively new to the Online Industry are advised to take the document as their own, from start top to bottom. Those who have well-developed Ts+Cs already, are still advised to use the IAB Standard Ts +Cs and Late Creative documents as the basis of their Ts+Cs going forward, but can add any additional corporate terms or conditions not covered in the IAB documents, into an “Appendix B”, following the “Appendix A: Late Creative Policy.

What’s the net result?

This is a balanced and fair document for all sides. The Agency/Publisher co-brokered Standard Ts+Cs and Late Creative Policy will create a uniform best practice that ensures Advertiser, Agency and Publisher resources are focused back where they need to be: on developing great campaigns and creative, and not on executional logistics.

IMPLICATIONS AND IMPACTS FOR INDUSTRY STAKEHOLDERS

Benefits For Advertisers and Agencies:

- o Improved inventory opportunities with 10-day cancellation policy allowing more efficient scheduling.
- o Reduced risk of non-working creative.
- o Earlier notice of non-working creative.
- o Option to run “stand-in” ads if creative is late (i.e. no complete loss of impressions).
- o Fewer missed-Advertising campaign start times.
- o Improved end-of campaign reporting and invoices.
- o Fewer variations to media planning/scheduling for multi-site buys.

New Considerations for Advertisers:

- o Campaign briefing and approval times will need to start sooner (see enclosed “Timeline” for suggested campaign planning, buying, implementation, tracking and reporting schedules).
- o Review of Agency payment requirements as they have tighter timelines to pay Publishers – or tighter payment requirements if they pay directly

New Considerations for Agencies:

- o Campaign briefing and approval times will need to start sooner (see enclosed “Timeline”for suggested campaign planning, buying, implementation, tracking and reporting schedules).
- o A “Stand-in” Gif or JPG will need to be created or designated for each ad campaign.
- o Production planning schedules will need to incorporate new timelines.
- o Billing schedules will need to be reviewed to facilitate 30-day Publisher-payment deadline.

Benefits For Publishers:

- o Improved campaign deliverability for Advertiser and Agency clients.
- o Improved efficiency of Ad Ops department.
- o Improved inventory management, with 10-day cancellation policy allowing more efficient scheduling.
- o Improved payment terms.

New Considerations for Publishers:

- o Will require creation of a more formalized process to alert Advertisers and Agencies of site design changes that could materially impact a campaign.
- o Will require creation of a more formalized process for notice to alert Advertisers and Agencies about non-functional creative.
- o These industry-standard Terms and Conditions will need to be appended to Insertion Orders.
- o Insertion Orders may need to be re-designed to include contacts re: creative considerations, and to highlight procedures for submitting "Stand-in" graphics, as well as new payment deadlines.
- o Will require education of sales-force in order to communicate new Terms and Conditions and Late Creative Policies to Advertisers and Agencies, and so they will work well with Ad Ops teams, who will be enforcing the policies.
- o Protocols/tagging for 'Stand-in Gif or JPG' for execution and reporting.
- o Protocols/tagging for 'Stand-in PSA' for execution and reporting.
- o Ad Ops trafficking schedules will need to be adjusted to allow for basic Specifications/Policy ad-testing, which is required to be completed within one business day of receipt of advertising materials.
- o Ad Ops trafficking schedules will need to be adjusted to allow for notification of Agency re: any changes required as a result of basic Specifications/Policy testing (with notification to be within 2 business days for Standard Banner creative, and three business days for Rich Media or Video).
- o Advertisers and Agencies require a printed/or digital report (depending on method of invoicing) to be appended to each campaign invoice. The printed/or digital report, must illustrate exactly how the ad campaign (as implemented by the Online Publisher), delivered on the requirements listed in the original Insertion Order (impressions, targeting, etc.) before payment can be implemented. In the case where "STAND-IN GIF or JPG ADs" or "STAND-IN PSA ADs" ran in place of originally-intended creative, the detailed printed/or digital report must also detail and separate out impressions, etc. for these ad units as well.

IAB Canada believes the immediate adoption of both the Terms and Conditions and Late Creative Policy will result in significant increases in efficiency and ease in Online media planning, buying, implementing, tracking, invoicing and payment. We encourage you to review the attached documents in detail, and use them in their entirety.

The IAB Canada Standard Terms and Conditions, including the Late Creative Policy can be downloaded from the Standards area at: www.iabcanada.com.

An Annotated version of the Ts+Cs including The Late Creative Policy (which follows), explains -- paragraph by paragraph -- what's being agreed to and by who, and is also available in the Standards area at www.iabcanada.com.

NOTE: Annotated versions of the document are for educational purposes only.

FACILITATING EDUCATION + UNDERSTANDING:

AN ANNOTATED VERSION OF THE STANDARD TERMS AND CONDITIONS FOR INTERNET ADVERTISING FOR MEDIA BUYS ONE YEAR OR LESS – March 1, 2008

IAB Canada has created the following document with "plain language" annotations of various paragraphs within the Standard Terms and Conditions and Late Creative Policies, in order to help all stakeholders feel confident and comfortable about what is really being agreed to in the documents.

For Agencies and Clients whose media decision making processes/or planning exercises cross the Canada/U.S. border, we have also highlighted (in yellow, and for information purposes only), where the Canadian policy differs from the most recent U.S. IAB / AAAA (American Association Of Advertising Agencies) Terms and Conditions document. NOTE: In every case where there is a difference, the Canadian documents actually accommodate the Agency and Advertiser community in a greater way than the U.S. documents, and so SHOULD NOT cause conflicts in business practices.

The IAB Canada Late Creative Policy is a giant-step forward -- in terms of both detail and back and forth accommodation for Advertisers, Agencies and Publishers -- when compared to both the U.S. and U.K. policies regarding this issue. In fact, because it sets out in such plain detail what happens where and when in the ad receipt and trafficking process, we believe that it will be the standard to be adopted globally in the future.

NOTE: The Ts+Cs and Late Creative documents do not cover sponsorships or other arrangements involving content association, integration or special production -- but may be used as the basis for the media components of such contracts.

****NOTE: Do not append any ANNOTATED, educational documents or charts to your formal Ts+Cs, Please use only the actual IAB Canada Standard Terms and Conditions and IAB Canada Late Creative Policy documents.****

ANNOTATED VERSION OF THE IAB CANADA STANDARD TERMS AND CONDITIONS

I. INSERTION ORDERS AND INVENTORY AVAILABILITY

- a. From time to time, parties may negotiate Insertion Orders (“IO”) under which a Media Company (Publisher) will deliver advertisements provided by Agency (“Ad(s)”) to Media Company’s site(s) (the “Site”) for the benefit of an Agency or Advertiser. At Agency’s discretion, an IO may either be submitted by Agency to Media Company or be submitted by Media Company, signed by Agency and returned to Media Company. In either case, an IO will be binding only if accepted as provided in Section I(b) below. Each IO shall specify:
- (a) the type(s) and amount(s) of inventory to be delivered (e.g., impressions, clicks 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 3rd Party Ad Server (“3rd Party Ad Server”), if applicable. Other items that may be included are, but are not limited to: reporting requirements such as impressions or other performance criteria; any special Ad delivery scheduling and/or Ad placement requirements; and specifications concerning ownership of data collected.

What it means: Either party may initiate and submit an Insertion Order (IO). Online Publishers (referred to as the Media Company in all legal portions of these documents going forward), agree to accept Agency IOs when submitted. All IOs to contain at least (a)-(e), but could also contain additional info, depending upon the campaign complexity.

NOTE TO PUBLISHERS: Advertisers and Agencies require a printed/or digital report (depending on method of invoicing), to be appended to each campaign invoice. The printed/or digital report, must illustrate exactly how the ad campaign (as implemented by the Online Publisher, delivered on the requirements listed in the original Insertion Order (impressions, targeting, etc.), before payment can be implemented. In the case where “STAND-IN GIF or JPG ADS” or “STAND-IN PSA ADS” (see Late Creative Policy, below), run in place of originally-intended creative, the detailed printed/or digital report must also detail and separate out impressions, etc. for these ad units as well.

- b. Media Company will make commercially reasonable efforts to notify Agency within two business days of receipt of an IO signed by Agency if the specified inventory is not available. Acceptance of the IO and these Terms and Conditions will be made upon the earlier of
- (a) written (which, unless otherwise specified, for purposes of these Terms and Conditions shall include paper, fax, or e-mail communication) approval of the IO by Media Company and Agency; or
 - (b) the display of the first Ad impression by Media Company, unless otherwise agreed upon in the IO. Notwithstanding the foregoing, modifications to the originally submitted IO will not be binding unless signed by both parties.

What it means: Online Publishers should consult with your attorneys for definitions of terms such as “commercially reasonable efforts,” “in good faith” and the like. These terms have specific legal meaning. Note also, that “written” is defined here as paper, fax, or e-mail, and when “written” appears anywhere in this document, it means any of these methods, unless otherwise specified. The contract is binding when it is either signed by the receiving party, **or** you begin delivering the impressions. Note that if Publisher intends to begin delivering ad impressions “in good faith” but does not agree to the terms of the IO, Publisher should submit a modified IO to the Agency and specifically note that starting ad delivery does not constitute acceptance of the IO.

- c. Revisions to accepted IOs must be made in writing and acknowledged by the other party in writing.

What it means: If more than one version of an IO is floating around, both parties must sign a final version.

II. AD PLACEMENT AND POSITIONING

- a. Media Company must comply with the IO, including all Ad placement restrictions, requirements to create a reasonably balanced delivery schedule, and provide within the scope of the IO, an Ad to the Site specified on the IO when such Site is called up by an Internet user. Any exceptions must be approved by Agency in writing.

What it means: If the IO states a balanced delivery requirement, the Publisher cannot front-load or end-load delivery.

- b. **Unless otherwise specified in the IO, Media Company will use commercially reasonable efforts to provide Agency at least 10 business days, prior notification of any material changes to the Site that would change the target.** Should such a modification occur without notice, as Agency’s and Advertiser’s sole remedy for change or notice, Agency may immediately cancel the remainder of the IO without penalty within the 10-day notice period.

What it means: Agencies are concerned that if a Site is modified in such a way that they are no longer advertising to the audience they expected, they have lost the value of their purchase. A “material change” is described in this section, but a

common-sense definition would be to think about whether the change would impact the value of the placement to the Advertiser. If such a change is made and the Agency thinks the value of its buy may be compromised, the Agency may cancel the entire IO, as there is no way to know whether the affected placement was the critical component of the campaign. Publishers may discuss a remedy for the change with the Agency, but the Agency has the final say on cancellation of the contract.

The yellow highlighting in this case, simply indicates that the first sentence in the Canadian Ts+Cs is more concise than in the U.S. / AAAA version.

- c. Media Company will submit or otherwise make electronically accessible to Agency within two business days of acceptance of an IO final technical specifications, as agreed upon by the parties. Changes to the specifications of the already purchased Ads after that two business day period will allow Advertiser to suspend (without impacting the end date unless otherwise agreed by the parties) delivery of the affected Ad for a reasonable time in order to either (i) send revised artwork, copy, or active URLs (“Advertising Materials”); (ii) request that Media Company resize the Ad at Media Company’s cost, and with final creative approval of Agency, within a reasonable time period to fulfill the guaranteed levels of the IO; (iii) accept a comparable replacement; or (iv) if the parties are unable to negotiate an alternate or comparable replacement in good faith within 5 business days, immediately cancel the remainder of the IO for the affected Ad without penalty.

What it means: It is important for Publishers to communicate their advertising specifications clearly at the start of the campaign. In the above paragraph, making changes to your advertising specifications without giving the Advertiser or Agency due time to adjust their creative, gives the Advertiser or Agency the option of cancelling the affected Ad.

- d. Ad delivery shall comply with editorial adjacencies guidelines stated on the IO. As Advertiser’s and Agency’s sole remedy for a violation of the foregoing sentence: (i) Ads that run in violation of such editorial adjacencies guidelines, if Media Company is notified of such violation within 30 days of the violation, shall be non-billable; and (ii) after Agency notifies Media Company that specific Ads are in violation of such editorial adjacencies guidelines, Media Company will make commercially reasonable efforts to correct within 24 hours such violation. In the event that such correction materially and adversely impacts such IO, the parties will negotiate in good faith mutually agreed changes to such IO to address such impacts. In the event that the parties cannot reach agreement on such changes within five business days from the implementation of such correction, Agency or Media Company may, upon the conclusion of such 5 business day period, immediately cancel such IO, without penalty.

What it means: Publishers should be alert to “editorial adjacency” clauses in IOs. Examples would be a clause in an IO from an airline stating that their ads may not appear next to a story about a plane crash, or a requirement that ads not appear in unmoderated chat rooms or areas containing adult content. Any ads that run in violation of such a requirement are non-billable. The Agency can “look back” 30 days from the time they notify a Publisher of the violation, and still demand a credit.

III. PAYMENT AND PAYMENT LIABILITY

a. Invoices

The initial invoice will be sent upon completion of the first month’s delivery or within 30 days of completion of the IO, whichever is earlier. Invoices are to be sent to: Agency’s billing address as set forth in the IO and must include information reasonably specified by Agency such as the IO number, Advertiser name, brand name or campaign name, and any number or other identifiable reference stated as required for invoicing on the IO. **All invoices pursuant to the IO must be received within 120 days of the end of the media campaign.** Failure by Media Company to send such invoice or make such request shall be considered a waiver of right to payment for delivery of Ads for which no invoice was sent.

Media Company should provide invoices accompanied by proof of performance for the invoiced period, which may include **a printed report or** access to Online or electronic reporting as addressed in this document, subject to the notice and cure provisions of Section IV. Media Company should invoice Agency for the services provided on a calendar month basis with the net cost (i.e., the cost after subtracting Agency commission) based on actual delivery or based on prorated distribution of delivery over the term of the IO, as specified in the applicable IO.

What it means: The “invoice within 120 days” requirement was added to address an Agency procedural issue: they generally bill their clients in advance and then pay the Publisher. If they do not receive Publisher invoices in a reasonable amount of time, they are holding client money that must either be returned or paid out. **NOTE TO PUBLISHERS:** It is especially important for Online Publishers to make sure invoices and attendant reports are received by Agencies in time to meet year-end requirements.

REMEMBER: Advertisers and Agencies require a printed/or digital report (depending on method of invoicing), to be appended to each campaign invoice. The printed/or digital report, must illustrate exactly how the ad campaign (as implemented by the Online Publisher, delivered on the requirements listed in the original Insertion Order (impressions, targeting, etc.), before payment can be implemented. In the case where “STAND-IN GIF or JPG ADS” or “STAND-IN PSA ADS” (see Late Creative Policy, below), run in place of originally-intended creative, the detailed printed/or digital report must also detail and separate out impressions, etc. for these ad units as well.

The yellow highlighting in this case, indicates:

1. That the Canadian Ts+Cs allows for 120 vs. 180 days for invoicing vs. The U.S. /AAAA document. We cut 2 months off of the delay for Publisher invoicing, because Canadian Publishers agreed they can deliver to this higher standard. In the end, if Agencies are not waiting around for reports/invoices Publishers should be paid quicker.
2. That the Canadian Ts+Cs defines proof of campaign performance (which is to accompany an invoice), as a printed/digital report.

b. Payment Date

Agency will make payment 30 days from receipt of invoice, or as otherwise stated in a payment schedule set forth in the IO. Media Company may notify Agency that it has not received payment in such thirty-day period and whether it intends to seek payment directly from Advertiser pursuant to Section IIIc, and may do so 5 business days after providing such notice.

What it means: Payment is due 30 days from **receipt** of invoice, not when the invoice was sent. Under (c), below, the Agency's payment liability attaches when they have, in turn, been paid. Publisher may, however, go directly to the Advertiser if they haven't been paid in a timely fashion, but note that they must provide notice to the Agency. This 30-day campaign payment period is consistent with other Canadian media payment terms (i.e. TV, Newspaper, Magazine, Radio, Out of Home).

c. Payment Liability

a. Unless otherwise set forth by Agency on the IO, Media Company agrees to hold Agency liable for all payments for Ads placed in accordance with the IO. Agency understands that it is Advertiser's disclosed Agent, therefore Agency has full obligations relating to such payments. Agency's credit is established on a client-by-client basis.

b. Agency will make available to Media Company upon request written confirmation of the relationship between Agency and Advertiser. This confirmation should include, for example, Advertiser's acknowledgment that Agency is its agent and is authorized to act on its behalf in connection with the IO and these Terms and Conditions. In addition, upon the request of Media Company, Agency will confirm whether Advertiser has paid to Agency in advance funds sufficient to make payments pursuant to the IO. If Agency's credit is or becomes impaired, Media Company may require payment in advance.

What it means: It is important for Publishers to have written confirmation of the Agency/Advertiser relationship. For example, if there is any doubt whether the Advertiser agrees to the purchase of media, Publishers may want to confirm the Agency's authority to purchase for the Advertiser. Publishers may also confirm whether the Agency has already been paid, if there is any doubt as to the Advertiser's ability to pay in a timely fashion.

IV. REPORTING

- a. Media Company must, within 2 business days of the start date on the IO, provide confirmation to Agency, either electronically or in writing, stating whether the components of the IO have begun delivery.
- b. Media Company shall make reporting available at least as often as weekly, either electronically or in writing, unless otherwise specified in the IO. Reports must be broken out by day and summarized by creative execution, content area (Ad placement), and other variables defined in the IO, for example, impressions, keywords, and/or clicks. Once Media Company has provided the online or electronic report, it agrees that Agency and Advertiser are entitled to reasonably rely on it, subject to receipt of Media Company's invoice for such period.
- c. In the event that Media Company fails to deliver an accurate and complete report by the time specified, Agency may initiate makegood discussions pursuant to Section VI below. **Challenges to the accuracy or completeness of reports must be submitted to Media Company in writing within 10 business days of submission of report to Agency.**

In the event that Media Company learns that it has delivered an incomplete or inaccurate report, or no report at all, Media Company must cure such failure within 10 business days. **Failure to cure may result in nonpayment for all activity for which data are incomplete or missing, until Media Company delivers reasonable evidence of performance and such report must be delivered within 30 days of Media Company's learning of such failure or absent such knowledge, within 120 days of the end of the media campaign.**

What it means: The phrase "entitled to reasonably rely on it" was intended to recognize the importance of providing the Agency with correct and timely reporting. Their business depends on receiving accurate information so they can adjust their media plans accordingly. Any inaccuracies in reporting must be corrected as provided in (c), and the invoice for the period should reflect the accurate reporting.

The yellow highlighting in this case indicates:

1. That in the Canadian Ts+Cs, the Agency has 10 days from receipt of the original report, to notify the Publisher of a challenge to the report. No such time limit was set in the U.S. document. Both Agencies and Publishers in Canada, agreed that Publishers cannot examine and rectify faulty reporting if they are not made aware of it in a timely manner.



2. The 120 days in the second highlighted section agrees with the 120-day invoicing period set out in the “III. PAYMENT AND PAYMENT LIABILITY, Invoices, (a)” section, above.

V. CANCELLATION AND TERMINATION

- a. At any time prior to the serving of the first impression of the IO, Agency may cancel the IO with 10 business days prior written notice, without penalty. Cancellations received within 10 business days prior to the serving of the first impression of the IO are subject to a 10 day sliding scale of required payment. For clarity and by way of example, if Agency cancels the IO 5 business days prior to the serving of the first impression, Advertiser will only be responsible for the first 5 days of the IO.
- b. Upon the serving of the first impression of the IO, Agency may cancel the IO for any reason, without penalty, by providing Media Company written notice of cancellation which will be effective after the later of: (i) 10 business days after serving the first impression of the IO; or (ii) 5 business days after providing Media Company with such written notice. Advertiser will be responsible for the total number of days that the Advertising Materials were executed.

What it means: Self explanatory regarding cancellations *before* the first ad is served. Once the first impression has been served, the Agency can cancel the IO for whatever reason without paying a penalty. However, the cancellation is not effective until 10 business days after the first impression is served or 5 business days if written notice is provided (whichever is later, and less damaging to the Online Publisher. The difference in time, is for those circumstances where cancellation occurs very soon after the first impression is served. Basically, the minimum number of days an Advertiser or Agency can cancel is 10 business days after the first impression is served.

The yellow highlighting in a. and b. indicates a difference in the amount of notice in the cancellation required to terminate a campaign. In the U.S., campaigns require a minimum of 30 days notice prior to cancellation. In the Canadian documents, campaigns require a minimum of 10 days notice prior to cancellation. **The cancellation date of 10 business days, although seemingly more lenient in the Canadian document, will be rigorously enforced.**

- c. Either party may terminate an IO at any time if the other party is in material breach of its obligations hereunder that is not cured within 10 business days after written notice thereof from the non-breaching party, except as otherwise stated in this Agreement with regard to specific breaches. Additionally, if Agency or Advertiser commit a violation of the same Policy (as defined below), where such Policy had been provided by Media Company to Agency, on three separate occasions after having received timely notice of each such breach, even if such breach has been cured by Agency or Advertiser, then Media Company may terminate the IO associated with such breach upon written notice. If Agency or Advertiser does not cure a violation of a Policy within the applicable ten day cure period after written notice, where such Policy had been provided by Media Company to Agency, then Media Company may terminate the IO associated with such breach upon written notice.

What it means: This allows either party to terminate the IO if the other breaches the Agreement and does not cure the breach within 10 business days. There is also a “three strikes” clause. This is intended to allow the Publisher to terminate the IO when the Agency or Advertiser simply refuses to cooperate. Note: this is the only provision that allows a Publisher to terminate the contract in the normal course of business.

- d. Short rates will apply to cancelled buys to the degree stated on the IO.

What it means: If Publishers have given an Advertiser a significant discount based on the volume or length of a contract, and don't want the discounted rate to apply if the deal is cancelled, the Publisher must state that regular rates apply in the case of cancellation (and this regular rate must be clearly outlined), in the IO.

VI. MAKEGOODS

- a. Media Company shall monitor delivery of the Ads, and shall notify Agency either electronically or in writing as soon as possible (and no later than two weeks before IO end date unless the length of the campaign is less than two weeks), if Media Company believes that an under-delivery is likely. In the case of a probable or actual under-delivery, the parties may arrange for a makegood consistent with these Terms and Conditions.
- b. In the event that actual Deliverables for any campaign fall below guaranteed levels, as set forth in the IO, and/or if there is an omission of any Ad (placement or creative unit), Agency and Media Company will make an effort to agree upon the conditions of a makegood flight either in the IO or at the time of the shortfall. If no makegood can be agreed upon, Agency may execute a credit equal to the value of the under-delivered portion of the contract IO for which it was charged. In the event that Agency or Advertiser has made a cash prepayment to Media Company, specifically for the campaign IO for which under-delivery applies, then if Agency and/or Advertiser is reasonably current on all amounts owed to Media Company under any other agreement for such Advertiser, Agency may elect to receive a refund for the under-delivery equal to the difference between the applicable pre-payment and the value of the delivered portion of the campaign. In no event shall Media Company provide a makegood or extend any Ad beyond the period set forth in the IO without prior written consent of Agency.

VII. BONUS IMPRESSIONS

- a. Where Agency utilizes a 3rd Party Ad Server, Media Company will not bonus more than 10% above the Deliverables specified in the IO without prior written consent from Agency. Permanent or exclusive placements shall run for the specified period of time regardless of over-delivery, unless the IO establishes an impression cap for 3rd Party Ad served activity. Agency will not be charged by Media Company for any additional Ads above any level guaranteed or capped in the IO. If a 3rd Party Ad Server is being used and Agency notifies Media Company that the guaranteed or capped levels stated in the IO have been reached, Media Company will use commercially reasonable efforts to suspend delivery and, within 48 hours, may either 1) serve any additional Ads itself or 2) be held responsible for all applicable incremental Ad serving charges incurred by Advertiser after such notice has been provided and associated with over-delivery by more than 10% above such guaranteed or capped levels.
- b. Where Agency does not utilize a 3rd Party Ad Server, Media Company may bonus as many ad units as Media Company chooses unless otherwise indicated on the IO. Agency will not be charged by Media Company for any additional advertising units above any level guaranteed in the IO.

What it means: This section addresses a key concern of the Agencies: they have a specific budget approved for 3rd party ad serving. They must pay the ad server for all impressions, and severe over-delivery will significantly increase their ad serving charges. **The section above makes the Publisher potentially liable for significant over-delivery of 3rd Party ad impressions.**

VIII. FORCE MAJEURE

- a. Excluding payment obligations, neither party will be liable for delay or default in the performance of its obligations under this Agreement if such delay or default is caused by conditions beyond its reasonable control, including but not limited to, fire, flood, accident, earthquakes, telecommunications line failures, electrical outages, network failures, acts of God, or labor disputes. In the event that the Publisher suffers such a delay or default, the Publisher shall make reasonable efforts within 5 business days to recommend a substitute transmission for the Ad or time period for the transmission. If no such substitute time period or makegood is reasonably acceptable to Agency, Media Company shall allow Agency a pro rata reduction in the space, time and/or program charges hereunder in the amount of money assigned to the space, time and/or program charges at time of purchase. In addition, Agency shall have the benefit of the same discounts that would have been earned had there been no default or delay.
- b. If Agency's ability to transfer funds to third parties has been materially negatively impacted by an event beyond the Agency's reasonable control, including, but not limited to, failure of banking clearing systems or a state of emergency, then Agency shall make every reasonable effort to make payments on a timely basis to Media Company, but any delays caused by such condition shall be excused for the duration of such condition. Subject to the foregoing, such excuse for delay shall not in any way relieve Agency from any of its obligations as to the amount of money that would have been due and paid without such condition.
- c. To the extent that a force majeure has continued for 5 business days, Media Company or Agency has the right to cancel the remainder of the IO without penalty.

IX. AD MATERIALS

- a. It is Agency's obligation to submit Advertising Materials in accordance with Media Company's then existing advertising criteria or specifications (including IAB Canada Standard Banner, Rich Media, Video, etc. Standards), content limitations, technical specifications, privacy policies, user experience policies, policies regarding consistency with Media Company's public image, community standards regarding obscenity or indecency (taking into consideration the portion(s) of the Site on which the Ads are to appear), other editorial or advertising policies, and material due dates (collectively "Policies") in accordance with Section II(c). Media Company's sole remedy for a breach of this provision is set forth in paragraphs (b and c) below, Section V(c), and Section X(b). If Advertising Materials are late, Advertiser is still responsible for the media purchased pursuant to IO. Advertising Materials are considered late if (i) The Media Company receives the final, Advertiser-approved and fully-functional Advertising Material in fewer than 3 business days for Standard Banner ad creative, or in fewer than 5 business days for Rich Media and Video ad creative, before the start of the specified Advertising Campaign. This 3 or 5 day period is required for the Media Company to 1) check for Specifications/Policy compliance, and 2) Testing / Scheduling. Provisions for late creative are outlined in Appendix A: Late Creative Policy. **NOTE: For more info on the definitions of Standard, Rich Media, Video etc. ad Units, please see www.iabcanada.com.**

What it means: If a campaign does not start on time due to late creative, Publishers will charge the Advertiser for all originally-contracted ad impressions. See Late Creative Policy (below) for more details.

In this case, the yellow highlighted area simply includes language around the more detailed Canadian Late Creative Policy.

- b. Media Company reserves the right within its discretion to reject or remove from its Site any Ads where the Advertising Materials or the site to which the Ad is linked do not comply with its Policies, or that in Media Company's sole reasonable

judgment, do not comply with any applicable law, regulation or other judicial or administrative order. In addition, Media Company reserves the right within its discretion to reject or remove from its Site any Ads where the Advertising Materials or the site to which the Ad is linked are or may tend to bring disparagement, ridicule, or scorn upon Media Company or any of its Affiliates (as defined below), provided that if Media Company has reviewed and approved such Ads prior to their use on the Site, Media Company will not immediately remove such Ads before making commercially reasonable efforts to acquire mutually acceptable alternative Advertising Materials from Agency.

What it means: This section is important because it provides Publishers with control over what ads appear on their sites. All Advertisers and Agencies should review the reasons for rejecting or removing ads for each Publisher that they deal with. **If Publishers have reviewed and approved an Ad, Publishers have less discretion to remove it,** as per the requirements in the above clause for working with the Agency if Publishers want to remove an Ad they have previously approved.

- c. On receipt of Advertising Materials provided by Agency, Media Company will use commercially reasonable efforts to notify Agency of non-compliance with Specifications/Policy within 1 business day of its receipt of Advertising Materials, and will notify Agency of any changes required as a result of Testing within 2 business days for Standard Banner creative and 3 business days for Rich Media or Video. Advertising Materials that require adjustments are still subject to all Late Creative timelines and provisions.

What it means: In this case, the yellow highlighting indicates a Canadian first: that in order to better alert Advertisers /Agencies to mal-functioning creative, **for all ad creative received, Publishers agree to do a basic Specifications Test (i.e. to check that the creative meets basic industry/site specifications in terms of dimensions, file size, animation, etc.) within 1 business day of receipt.**

If the creative does NOT meet the Publishers specifications, the Advertiser/Agency must be notified of the problem in a timely manner (as per above), so that the Advertiser/Agency can repair the creative and re-submit it, hopefully, in time to meet deadlines associated with the Late Creative Policy (see below).

- d. Media Company will not edit or modify the submitted Ads in any way, including, but without limitation, resizing the Ad, without Agency approval. Media Company shall use all such Ads in strict compliance with these Terms and Conditions and any written instructions provided by Agency.
- e. When applicable, 3rd Party Ad Server tags shall be implemented so that they are functional in all aspects.

What it means: This was worded as “functional in all aspects” to allow the addition of a necessary tracking code to 3rd party tags. The Publisher’s responsibility is to make sure the tags work as the 3rd party ad server intended.

- f. Media Company, on one hand, and Agency and Advertiser, on the other, will not use the other’s trade name, trademarks, logos or Ads in a public announcement (including, but not limited to, through any press release) regarding the existence or content of these Terms and Conditions or an IO without the other’s prior written approval.

X. INDEMNIFICATION

This section deals with complex legal issues. Publishers should discuss this section in detail with their lawyers in order to fully-understand the interpretation of the consequences of legal liability. The comments below will point out a few specific business concepts contained in the language, but are by no means meant to be construed as actual legal advice or legal interpretation.

- a. Media Company agrees to defend, indemnify and hold harmless Agency and Advertiser, their Affiliates (as defined below) and their respective directors, officers, employees and agents from any and all damages, liabilities, costs and expenses (including reasonable attorneys’ fees) (collectively “Losses”) incurred as a result of a Third Party (as defined below) claim, judgment or proceeding relating to or arising out of Media Company’s breach of Section XII, Media Company’s display or delivery of any Ad in breach of these Terms and Conditions or the terms of an IO, or that materials provided by Media Company (and not by Agency or Advertiser) for an Ad violate the right of a Third Party, are defamatory or obscene, or violate any law, regulations or other judicial or administrative action, except to the extent (1) that such claim, judgment or proceeding resulted from such materials fulfilling Agency’s or Advertiser’s unique specifications provided that Media Company did not know or should not have reasonably known that such specifications would give rise to the Loss or (2) that such materials are provided to Agency or Advertiser for review and the Agency or Advertiser knew or should have reasonably known from the visual or sonic expression of the Advertisement, while Media Company did not know or should not have reasonably known, that such material violated any law, regulations or other judicial or administrative action, violate the right of a Third Party or are defamatory or obscene. An Affiliate means, with respect to either party, any corporation, firm, partnership, person or other entity, whether de jure or de facto, which directly or indirectly owns, is owned by or is under common ownership with such party to the extent of at least 50% of the equity having the power to vote on or direct the affairs of the entity, and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with such party. A “Third Party” means an entity other than the parties to this Agreement, their respective Affiliates, and each of their respective directors, officers, employees and agents.

What it means: This section deals with the conditions under which Publishers would have to indemnify the Advertiser or Agency if either were to be sued by a third party. It defines what third party suits would create this obligation. It also deals

with situations where Publishers are providing materials for an Ad at the request of the Advertiser or Agency. The language was crafted to require Publishers to indemnify if, for example, the Publisher used stolen code in an Ad they built, but not, for example, if the Agency asked the Publisher to create an Ad and didn't make you aware of an industry regulation that the Advertiser was operating under, that required certain disclaimers to appear in the Ad.

- b. Advertiser agrees to defend, indemnify and hold harmless Media Company its Affiliates and their respective directors, officers, employees and agents from any and all Losses incurred as a result of a Third Party claim, judgment or proceeding relating to or arising out of Advertiser's breach of Section XII, violation of Policies (to the extent the applicable terms of such Policies have been provided to Agency at least ten days prior to the violation giving rise to the claim), or the content or subject matter of any Ad or Advertising Materials to the extent used by Media Company in accordance with these Terms and Conditions or an IO, including but not limited allegations that such content or subject matter violate the right of a Third Party, are defamatory or obscene, or violate any law, regulations or other judicial or administrative action.
- c. Agency represents and warrants that it has the authority as agent to Advertiser to bind Advertiser to these Terms and Conditions and each IO. Agency agrees to defend, indemnify and hold harmless Media Company its Affiliates and their respective directors, officers, employees and agents from any and all Losses incurred as a result of Agency's alleged breach of the foregoing sentence.

What it means: The above section (c) is important in that it ensures that if the Advertiser were to claim that the Agency was not, in fact, acting on its behalf, the Agency would step up and meet the Advertiser's obligations to indemnify the Publisher under this Section.

- d. If any action will be brought against either party (the "Indemnified Party") in respect to any allegation for which indemnity may be sought from the other party ("Indemnifying Party"), the Indemnified Party will promptly notify the Indemnifying Party of any such claim of which it becomes aware and will: (i) provide reasonable cooperation to the Indemnifying Party at the Indemnifying Party's expense in connection with the defense or settlement of any such claim; and (ii) be entitled to participate at its own expense in the defense of any such claim. The Indemnified Party agrees that the Indemnifying Party will have sole and exclusive control over the defense and settlement of any such third party claim. However, the Indemnifying Party will not acquiesce to any judgment or enter into any settlement that adversely affects the Indemnified Party's rights or interests without the prior written consent of the Indemnified Party.
- e. Notwithstanding the foregoing, in the event that any Indemnifying Party is required to defend, indemnify or hold harmless an Indemnified Party from a claim, judgment or proceeding of a Related Party (as defined below) of such Indemnified Party pursuant to this Section X, Losses incurred in connection with such claim, judgment or proceeding will be limited to those that are reasonably foreseeable. A "Related Party" is a party in a contractual relationship with the Indemnified Party where such specific contractual relationship relates to the Loss being asserted by that Related Party.

XI. LIMITATION OF LIABILITY

- a. Excluding the parties obligations under Section X or damages that result from a breach of Section XII or intentional misconduct by the parties, in no event will either party be liable for any consequential, indirect, incidental, punitive, special or exemplary damages whatsoever, including without limitation, damages for loss of profits, business interruption, loss of information and the like, incurred by the other party arising out of this Agreement, even if such party has been advised of the possibility of such damages.

What it means: This Section means, that for the most part, a Publisher's liability under an IO is restricted to direct damages. Publishers cannot be held liable for things like "brand damage" or "lost profits." For example, Publishers would not be exposed to millions of dollars of damages if an Ad appeared in a chat room where a chat user typed something obscene. Publishers should, however, consult their lawyers for actual interpretation.

XII. NON-DISCLOSURE, DATA OWNERSHIP, PRIVACY AND LAWS

- a. Any marked confidential information and proprietary data provided by one party, including the Ad description, and the pricing of the Ad, set forth in the IO, shall be deemed "Confidential Information" of the disclosing party. Confidential Information shall also include information provided by one party, which under the circumstances surrounding the disclosure would be reasonably deemed confidential or proprietary. Confidential Information shall not be released by the receiving party to anyone except an employee, or agent who has a need to know same, and who is bound by confidentiality obligations. Neither party will use any portion of Confidential Information provided by the other party hereunder for any purpose other than those provided for under this Agreement.
- b. For purposes of this Section, Agency and Advertiser shall be considered one party. Notwithstanding anything contained herein to the contrary, the term "Confidential Information" shall not include information which: (i) was previously known to a party; (ii) was or becomes generally available to the public through no fault of the receiving party ("Recipient"); (iii) was rightfully in Recipient's possession free of any obligation of confidence at, or subsequent to, the time it was communicated to Recipient by the disclosing party ("Discloser"); (iv) was developed by employees or agents of Recipient independently of and without reference to any information communicated to Recipient by Discloser; or (v) was communicated by Discloser to an unaffiliated third party free of any obligation of confidence. Notwithstanding the foregoing, either party may disclose

Confidential Information in response to a valid order by a court or other governmental body, as otherwise required by law or the rules of any applicable securities exchange or as necessary to establish the rights of either party under this Agreement; provided, however, that both parties will stipulate to any orders necessary to protect said information from public disclosure.

- c. 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 is the property of Advertiser, is subject to the Advertiser's posted privacy policy, and is considered Confidential Information. Any other use of such information must be set forth in the IO signed by both parties.

What it means: Section (c) is intended to address the collection of personally-identifiable information such as e-mail addresses, names, postal addresses, etc. Such information is often collected in connection with a promotion or in an HTML or flash-based banner. This section recognizes that such data was collected on behalf of the Advertiser, and as such is theirs to keep. **Arrangements for joint ownership of the data should be written into the IO.** This section, and in fact these Terms, do not address non-personal information such as "clicks", "hover time," and other behavioural data that is often collected in conjunction with Advertising. If Publishers make use of such data, Publishers should be aware of any language in the IO that purports to restrict such use.

- d. Media Company, Agency, and Advertiser shall post on their respective Websites their privacy policies and adhere to their privacy policies, which abide by the applicable laws. Failure by Media Company, on one hand, or Agency or Advertiser, on the other, to continue to post a privacy policy or non-adherence to its own privacy policy is grounds for immediate cancellation of the IO by the other parties.
- e. Agency, Advertiser and Media Company will comply with at all times, all applicable federal, provincial and local law, ordinances, regulations and codes which are relevant to their performance of their respective obligations under this Agreement.

XIII. 3rd PARTY AD SERVERS (Applicable if 3rd Party Server Is Used)

- a. Media Company will track delivery through its ad server and Agency will also track delivery through its proprietary or subcontracted 3rd Party Ad Server whose identity is set forth in the IO. Agency may not substitute the 3rd Party Ad Server specified in the IO without Media Company's consent. Agency and Media Company agree to give reciprocal access to relevant and non-proprietary statistics from both ad servers, or if such is not available, provide daily reports for the first three days of the IO and weekly placement-level activity reports to each other thereafter. In the event that the Media Company's ad server measurements are higher than those produced by the Agency's 3rd Party Ad Server by more than 10% over the invoice period, Agency will facilitate a reconciliation effort between Media Company and 3rd Party Ad Server. If the discrepancy cannot be resolved and Agency has made a good faith effort to facilitate the reconciliation effort, the **Advertiser's or Agency's 3rd Party** Ad Server measurement will be used with a maximum adjustment of 10%.

What it means: If the Online Publisher's ad server records are higher than the Agencies by more than 10%, then the Agency will facilitate a reconciliation effort. If the Agency has facilitated a reconciliation and the dispute can't be resolved, then the Advertiser/Agency's records shall control with an adjustment, not to exceed 10%, to be made for the discrepancy.

- b. Media Company will make reasonable efforts to publish, and Agency shall make reasonable efforts to cause the 3rd Party Ad Server to publish, a disclosure in the form specified by the IAB /U.S. AAAA (American Association Of Advertising Agencies) regarding their respective ad delivery measurement methodologies with regards to compliance with the **IAB / U.S. AAAA Global Ad Measurement Guidelines.**
- c. Section XIII(a) shall be terminated upon the establishment of an **IAB /U.S. AAAA** certification process for compliance with the **IAB /U.S. AAAA Global Ad Measurement Guidelines.** Upon such termination the parties shall negotiate in good faith a replacement or successor language for that Section.

What it means: The two preceding sections are intended to emphasize the importance of standardizing Ad measurement, and the role that the IAB / U.S. AAAA Global Ad Measurement Guidelines will play in that process. The "sunset" provision in (c) emphasizes that the compromise process in (a) is imperfect and should be replaced as soon as possible by an objective process for measurement.

- d. Where an Agency is utilizing a 3rd Party Ad Server and that 3rd Party Ad Server cannot serve the Ad, the Agency shall have a one-time right to temporarily suspend delivery under the IO for a period of up to 72-hours. Upon written notification by Agency of a non-functioning 3rd Party Ad Server, the Media Company has 24 hours to suspend delivery. Following that period, Agency will not be held liable for payment for any Ad that runs within the immediate 72-hour period thereafter until the Media Company is notified that the 3rd Party Ad Server is able to serve Ads. After the 72-hour period passes and Agency has not provided written notification that Media Company can resume delivery under the IO, Advertiser will pay for the Ads that would have run or are run after the 72 hour period but for the suspension and can elect Media Company to serve Ads until 3rd Party Ad Server is able to serve Ads. If Agency does not so elect for Media Company to serve the Ads until 3rd Party Ad Server is able to serve Ads, Media Company may utilize the inventory that would have been otherwise used for Media Company's own advertisements or advertisements provided by a third party. Upon notification that the 3rd Party Ad



Server is functioning, Media Company will have 72 hours to resume delivery. Any delay in the resumption of delivery beyond this period, without reasonable explanation, will result in Media Company owing a makegood to Agency.

XIV. MISCELLANEOUS

- a. Media Company represents and warrants that Media Company has all necessary permits, licenses, and clearances to sell the inventory represented in the IO subject to the terms and conditions of this agreement, including any applicable Policies. Advertiser represents and warrants that Advertiser has all necessary licenses and clearances to use the content contained in their Ads and Advertising Materials.

What it means: This section specifically refers to Publisher's ability "to sell the inventory" and is not a representation or warranty for all the content on the site.

- b. Neither Agency nor Advertiser may resell, assign or transfer any of its rights or obligations hereunder, and any attempt to resell, assign or transfer such rights or obligations without Media Company's prior written approval will be null and void. All terms and provisions of these Terms and Conditions and each IO will be binding upon and inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns.
- c. These Terms and Conditions and the related IO constitute the entire agreement of the parties with respect to the subject matter and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to the subject matter of the IO. The IO may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same document.
- d. In the event of any inconsistency between the terms of an IO and these Terms and Conditions, the terms of the IO shall prevail. All IOs shall be governed by the laws of the province of []. Media Company and Agency (on behalf of itself and not Advertiser) agree that any claims, legal proceeding or litigation arising in connection with the IO (including these Terms and Conditions) will be brought solely in [], and the parties consent to the jurisdiction of such courts. No modification of these Terms and Conditions or any IO shall be binding unless in writing and signed by both parties. If any provision herein is held to be unenforceable, the remaining provisions shall remain in full force and effect. All rights and remedies hereunder are cumulative.
- e. Any notice required to be delivered hereunder shall be delivered 3 business days after deposit in Canada Post, return receipt requested; 1 business day if sent by overnight courier service, and immediately if sent electronically or by fax. All notices to Media Company and Agency shall be sent to the contact as noted in the IO with a copy to the Legal Department. All notices to Advertiser shall be sent to the address specified on the IO.

What it means: In this case, the yellow highlighting simply substitutes Canadian locations and a Canadian mail service into the document, in place of U.S. ones.

- f. Sections III, VI, X, XI, XII, and XIV shall survive termination or expiration of this Agreement and Section IV shall survive for 30 days after the termination or expiration of this Agreement. In addition, each party shall return or destroy the other party's Confidential Information and remove Advertising Materials and Ad tags.

**FACILITATING EDUCATION + UNDERSTANDING:
AN ANNOTATED VERSION OF THE LATE CREATIVE POLICY FOR INTERNET ADVERTISING FOR MEDIA BUYS ONE YEAR
OR LESS – March 1, 2008**

The following ANNOTATED Late Creative Policy document provides a more detailed explanation of the Late Creative policy that is referenced in "Section IX. AD MATERIALS" of the IAB Canada Standard Terms and Conditions documents.

****NOTE: Do not append the ANNOTATED Ts+Cs or ANNOTATED Late Creative Policy educational documents or charts to your IOs.**

Please append only the actual IAB Canada Standard Terms and Conditions and IAB Canada Late Creative Policy documents to your IOs.**

ANNOTATED IAB CANADA LATE CREATIVE POLICY

Appendix A: LATE CREATIVE POLICY

DEFINITION:

Ad Material Due Dates

The Canadian Online Media Company Late Creative Policy requires that final, Advertiser-approved, fully-functional Online Ad Materials (in accordance with individual Media Company specifications (which may be IAB Canada Universal Ad package for Standard Banner or Rich Media/Video units or otherwise) be delivered as follows:

- Final, Advertiser-approved, fully-functional ad creative for Standard Banner ad units (see www.iabcanada.com for definition/file size restrictions) is due 3 business days prior to the start of the ad campaign as set out in the original Insertion Order (IO).
- Final, Advertiser-approved, fully-functional ad creative for Rich Media and Video ad units (see www.iabcanada.com for definition/file size restrictions), is due 5 business days prior to the start of the ad campaign as set out in the original Insertion Order (IO).

What it means: “Fully-functional” means that the creative is completely ready to go, and will run on the Publisher’s Site without error. The Agency must also ensure that Advertiser approval for all contents within the Ad has been granted (this is covered in the T’s and C’s as well).

- Media Company will utilize this 3 or 5 day period to 1) check for Specifications/Policy compliance, and 2) Testing/Scheduling.
- Media Company will use commercially reasonable efforts to notify Agency of non-compliance with Specifications/Policy within 1 business day of its receipt of Advertising Materials, and will notify the Agency of any changes required as a result of Testing, within 2 business days for Standard Banner creative and 3 business days for Rich Media and Video.

What it means: “Commercially reasonable” reflects the Publisher’s intent to inform Agencies as quickly as possible, while not putting the full onus on Publishers to find the Agency contact and ensure a remedy is in progress. The Agency should always include “Creative” contact on the IO.

For Clarity, the protocol for the 3 or 5 day deadline period is as follows:

- Day 1: Media Company runs a “Specifications”** check and notifies the Agency of any material issues, within 24 hours upon receipt of Advertising Materials.
- Days 2-3 or 2-5: Upon confirmation that Specifications are correct, Media Company will begin “Full Implementation”** check of Advertising materials.
- If Advertising materials are found by Media Company to have additional implementation issues that originate with Agency, the Advertising materials will then be considered ‘not final’ and the 2 or 4 day allowance to launch period will begin again upon re-submission of fully-functional Advertising Materials.

What it means: If the problem is in the original file/format from the Agency, the cured creative will still be held to the 2 or 4 day ‘Testing’ requirement once it is submitted.

- It is understood that Media Company will make every effort (but without guarantee), to work together with Agency to rectify issues with Advertising Materials within the respective 3 or 5 day deadline period so that Advertising Materials will start as per IO.

* **“Specifications” check** includes but is not limited to: Inclusion of close button check; file dimension and weight check; animation (timing or looping) check.

** **“Full Implementation” check** includes but is not limited to: Clickthrough and reporting check; Z index/Wmode check; Java Script conflict check; ad server conflict check.

- **NOTE: If an Advertiser or Agency is using a 3rd Party Ad Server or Rich Media or Video vendor external to the agency/agency ad server to deliver and track their Online ad campaign, it is recommended that final, Advertiser-approved, fully-functional creative of all types be delivered to the external 3rd Party Ad Serving/vendor company at least 10 days prior to the start of the campaign as set out in the original campaign Insertion Order (IO), to allow for any additional external ad server/vendor testing and tagging.**

What it means: It is recommended that Advertisers and Agencies give external 3rd Party vendors additional time to check creative as well. Creative should be sent to them at least 10 days in advance of actual campaign launch date, so they can in turn send it on to the Publishers in time to meet the 3 and 5 day restrictions.

RESPONSIBILITY:

If final, Advertiser-approved, fully-functional Advertising Material is not received by the Online Media Company according to the due dates above, the creative will be considered LATE, and the following will apply:

- Although the Advertiser still “owns” the ad impressions, space and time period that the original Online ad was slated to run (i.e. Online Media Companies can not re-sell this space while the Advertiser seeks to remedy the late creative), unless an Advertiser or their Agency has supplied a “STAND-IN GIF or JPG AD” (see below), to run in place of the late creative, Media Companies have the right to run a “STAND-IN PSA AD” in place of the late creative.



What it means: A regular “STAND-IN” .gif or .jpg ad should be submitted with every campaign, so that if an Advertiser’s/Agency’s intended ad creative is found to be not functional and is not available to be used for the actual campaign launch, while the intended creative is being repaired, at least some form of Advertiser-branded creative can run. E.g. While the ad for the “10% discount off of ABC merchandise this weekend” is being repaired, a “STAND-IN GIF or JPG AD” with the advertiser logo and text such as “ABC, your friendly Canadian department store” can run.

If no “STAND-IN GIF or JPG AD” has been supplied, the Publisher has the right to run an IAB Canada-Approved Public Service Announcement Ad (STAND-IN PSA AD), in the purchased inventory instead. This is so the inventory is not left blank, and also so that Publishers do not utilize this space to run house ads.

- The Advertiser and their Agency has effectively “lost” all Ad impressions which run (regardless of whether they run as a “STAND-IN GIF or JPG AD” or a “STAND-IN PSA AD”), while the Advertiser’s intended creative remains outstanding.
- The Advertiser and their Agency will be billed for all impressions purchased pursuant to the original Insertion Order, regardless of whether these impressions featured the intended creative, a “STAND-IN GIF or JPG AD” or a “STAND-IN PSA AD”.
- Media Companies do not “owe” Advertisers and their Agency any impressions which run featuring a “STAND-IN GIF or JPG AD” or a “STAND-IN PSA AD”.

What it means: No matter how long the creative took to be repaired -- even if took so long that all the originally-purchased Ad impressions have run using either a “STAND-IN GIF or JPG AD” or a “STAND-IN PSA AD” – the Publisher does not owe the Advertiser/Agency any Ad inventory. This provision addresses the Publisher’s need to be able to bill for the Ad impressions that were originally reserved.

- If Additional impressions are required to meet Advertiser/Agency goals, additional space and impressions must be booked and purchased in addition to the original IO (assuming the inventory is available).

DETAILED OPTIONS FOR FILLING LATE CREATIVE SPACE/IMPRESSIONS:

If final, Advertiser-approved, fully-functional Advertising Materials, are not received by the Online Media Company according to the due dates above, the Advertiser and their Agency are still responsible for the media purchased, pursuant to IO, or up to the point where campaign has been cancelled. (Terms and Conditions Cancellation Clause to be applied).

In order to make sure that the booked ad space is filled while the Advertiser and their Agency attempts to remedy the late creative situation, the Online Media Company may elect to enforce one of the following provisions:

1. “STAND-IN GIF OR JPG AD” Replacement

- A GIF or JPG version of the Advertisers’ intended creative (or other designated creative meeting the Online Media Company’s technical and content specifications), may be provided by the Advertiser and their Agency to the Online Media Company – either by the Advertising Material deadline date (recommended) -- or after -- in order to fill any late creative space.
- This GIF or JPG will be considered a “STAND-IN GIF or JPG AD”, and will run until the final, fully-functional intended creative can be delivered.
- The Online Media Company will use the “STAND-IN GIF or JPG AD” as the approved creative/Advertising Materials in all designated placements as outlined in the IO.
- Upon receipt of the final, Advertiser-approved and fully-functional creative/advertising materials, the Online Media Company will replace the “STAND-IN GIF or JPG AD” with the intended creative/Ad Materials within a requisite 3 or 5 business days after receipt. If the intended creative/Ad Materials are delivered prior to the campaign start, the Online Media Company will make every effort, but without guarantee, to replace the “STAND-IN GIF or JPG AD” with the intended creative/Ad Materials in time for the campaign start.

What it means: Once the creative has been repaired, the Publisher has the requisite 3 or 5 days to re-test the creative. While this second set of testing is being carried out, and until the repaired ad can be trafficked Online, the “STAND-IN GIF or JPG AD” will run.

2. “STAND-IN PUBLIC SERVICE ANNOUNCEMENT (PSA) AD” Replacement

- An IAB Canada-approved PSA (meeting the Media Company’s technical and content requirements), may be substituted by the Online Media Company if no “STAND-IN GIF or JPG AD” creative is provided by the Advertiser and their Agency before the Ad Material deadline date.
- This PSA will be considered “STAND-IN PSA AD” creative, and will run until final creative/Ad Materials can be put live.

- The Online Media Company will use the “STAND-IN PSA AD” as the approved creative/Advertising Materials in all designated placements as outlined in the IO.
- Upon receipt of the ‘fully-functional creative/Advertising Materials’, the Online Media Company will replace the “STAND-IN PSA AD” with the intended creative within the requisite 3 or 5 business days. If the intended creative is delivered prior to the campaign start, the Online Media Company will make every effort, but without guarantee, to replace the “STAND-IN PSA AD” with the Intended creative/Ad Materials in time for the campaign start.

What it means: Once the creative has been repaired, the Publisher has the requisite 3 or 5 days to re-test the creative. While this second set of testing is being carried out, and until the repaired ad can be trafficked Online, the “STAND-IN PSA AD” will run.

- A pre-determined set of PSA ads will be developed and made available to Online Media Companies across Canada by IAB Canada, and will be served by EyeReturn (www.eyereturn.com), which has generously offered their services in this regard.

REPORTING:

- The Online Media Company will include results for “STAND-IN GIF OR JPG AD” or “STAND-IN PSA AD” creative in their delivery reports, within reporting guidelines as outlined in IO.
- A “STAND-IN GIF OR JPG AD” or “STAND-IN PSA AD” will be identified as such within the report, along with the respective impressions delivered.

BILLING:

- The Advertiser and their Agency will be billed for the original, full, contracted amount pursuant to the original IO, which may include any or all “STAND-IN GIF OR JPG AD” or “STAND-IN PSA AD” impressions, as a result of late creative.