



**mediadvice**  
**Terms and Conditions**

Welcome to MediAdvice. By submitting an application to, or by accessing the Company Platform, you are bound by the following Terms and Conditions of the Publisher Program (“T&Cs”). The following Publisher Terms and Conditions (“Terms and Conditions” or “Agreement”) set forth the terms and conditions that shall govern the relationship between you (“Publisher” or “you”) and MediAdvice (“Company” or “we”) and apply to Publisher’s participation in the Publisher Program, and collectively constitute the “Agreement”.

## **1. Definitions.**

- “Client” means a client of MediAdvice.
- “Offer” means a promotional offer published by MediAdvice on the Program Site, in an electronic mail or both, setting out an advertising offer on behalf of a Client and containing such additional terms and conditions as the Client and MediAdvice, in their discretion, consider necessary from time to time.
- “Publisher Program” means the participation of Publisher in the Company Platform as an Publisher of Company, providing and making available Publisher Media to Company.
- “Advertiser” means the advertiser, Advertiser or advertising agency providing advertisements to MediAdvice for use by the Affiliate.
- “Publisher” means the party executing this Agreement with Company.
- “Campaign Terms” means the specific guidelines for each Advertiser campaign as listed in the MediAdvice Network
- “Spam” means unsolicited bulk email where recipients have not agreed in advance to receive Ads.

## **2. Enrollment in the Publisher Program**

- In order to participate in the Publisher Program you may be required to submit an online application. Company reserves the right to reject any application at its sole discretion.
- It is Company’s intention to purchase advertising space from the Publisher Media, paying to the Publisher a certain amount through the payout model described in Section 9 (Commission and Payment Conditions) of this Agreement.
- The Parties will remain, at all times, primarily liable to each other under the terms mentioned in this Agreement.
- This Agreement prevails over any terms supplied by the Publisher.
- Any individual contracting on his or her own behalf warrants that he or she is aged 18 or over. Any individual applying for the Publisher Program on behalf of a proposed Publisher warrants that he or she has all necessary authority to bind that proposed Publisher.

### **3. Affiliate Requirements**

- Affiliate is subject to review and may be rejected for any reason, and at any time, by MediAdvice.
- Affiliate must submit valid and correct contact information, including but not limited to name, e-mail address, street address, and telephone number. Affiliate must ensure this information remains up-to-date at all times within the MediAdvice Network. Affiliate must accurately, clearly and completely describe all promotional methods in their descriptions and provide additional information when necessary.
- Affiliate websites must not be associated with or contain any illegal activity, or pornographic, obscene, racist, or hateful content, or deceptive advertising, piracy, libelous or defamatory statements.
- Affiliate websites must not contain any mechanisms that could be downloaded on to a User's computer without the User's explicit knowledge and consent.
- In its sole discretion, if at any time MediAdvice deems the Affiliate's website or advertising activities are contrary to the terms set out in the Agreement, the Affiliate shall be terminated from the Network and shall forfeit any and all commissions and earnings.

### **4. Affiliate Rules.**

- Failure to adhere to the following rules is a violation of the Agreement and will result in immediate termination of the Affiliate from the MediAdvice Network with forfeiture of all monies due to Affiliate.
- Affiliate must not modify the Ads supplied by MediAdvice in any way unless prior written approval is obtained from MediAdvice.
- Affiliate must indicate whether he uses incentive traffic, and only offer incentives to Users to respond to Ads with permission from MediAdvice and the Advertiser as indicated on the Network and Campaign Terms, or in writing. MediAdvice reserves the right to define the term incentive.
- Affiliate must not make misleading or disparaging statements, oral or written, about any Ad, Advertiser or MediAdvice.
- Affiliate must agree to receive periodic communications from MediAdvice in the form of e-mail, instant message, postal mail, telephone or fax.
- Affiliate must comply with all Campaign Terms as outlined in Ads.

### **5. Offer**

- Offers will be posted to the Program Site.
- The Program grants the Affiliate a limited, non-exclusive, non-transferable right to download offers from the Program Site and to publish the same on the Affiliate's websites and in electronic mail correspondence sent by the Affiliate, all of which must be done in accordance with this Agreement, the Program Policies, as amended

from time to time, and the additional terms and conditions affixed to each of the said offers.

- The Affiliate agrees not to modify, alter, misrepresent or embellish the Offer or any part of the offer including without limitation any text or images provided by or on behalf of the Program or the Client in any way, directly or indirectly, without the express prior written consent of the Program.

## **6. Fraud**

MediAdvice may actively monitor traffic, Transactions, Commissions, and other Program-related activities for potential fraud. If MediAdvice, in its sole discretion, suspects or determines that Your account has been used in a fraudulent, deceptive, or unethical manner, Your account will be deactivated effective immediately, with no notice to You, and You will forfeit all Commissions, pending further investigation. You agree to be bound by any and all such determinations and the burden is on Publisher to prove to MediAdvice that it has not engaged in fraud. MediAdvice will hold Your Commission-related payments until You have satisfactorily provided conclusive evidence that demonstrates to MediAdvice that You have not engaged in fraud. If You are unable to provide MediAdvice with satisfactory and conclusive evidence that You have not engaged in fraud within seven (7) calendar days of Your Commissions being so held by MediAdvice, and/or in the case of cancellations, chargebacks, uncollected Commissions and invalid transactions, MediAdvice reserves the right to terminate Your Publisher account and cancel payment on all Programs, at its sole discretion and without any further notice or obligations to You. In circumstances where Commissions have been previously released, MediAdvice reserves the right to invoice Publisher and Publisher agrees to return applicable Commissions within five (5) business days.

For the purposes of this Agreement, fraudulent activity includes but is in no way limited to:

- activity by the Affiliate or anyone for whom in law the Affiliate is responsible which is directly or indirectly intended to inflate the Commissions payable to the Affiliate;
- the generation of leads other than by a mechanism approved by the Program;
- activity by the Affiliate or anyone for whom in law the Affiliate is responsible which is not in accordance with the Program;
- any spam activity and activity which is determined by the Client, in its discretion, to be fraudulent.

## **7. Right to Audit**

MediAdvice reserves the right to audit any website traffic at any time and for any reason, or no reason at all. Should MediAdvice determine, in the exercise of its reasonable business judgment, that You have employed any device to artificially inflate leads, Your membership in the Marketing Service and Network may be immediately terminated, any unpaid Commissions will be immediately forfeited, and You may be required, upon demand, to return to MediAdvice any Commissions attributable to the Transactions that had been previously paid.

## **8. Representations and Warranties.**

- Each Party represents and warrants they have full corporate right, power, and authority to enter into this Agreement, to grant the rights and licenses granted and to perform the acts required of it.
- Each Party acknowledges that the other Party makes no representations, warranties, or agreements related to the subject matter hereof that are not expressly provided for in this Agreement.

## **9. Commission and Payment Conditions**

- The Program will pay to the Affiliate a commission (the "Commission"), calculated in accordance with the payment terms outlined in each Offer posted by the Program on the Program Site. The Program applies weekly payment plan (payments on Mondays of each week), unless mutually agreed otherwise. Notwithstanding of the selected payment method (e.g. paypal, webmoney etc.) the Affiliate shall provide the Program with their actual bank details.

- Commissions will be paid to the Affiliate only following receipt by the Program of payment from the Client in respect of such Offer published in the Program online reporting system. The Program may, in its sole discretion and from time to time, elect to advance to the Affiliate part or all of the Commissions prior to receipt of payment from the Client, but in no event will the Program be obligated to do so.

- Minimum amount that can be paid to the Affiliate in a given billing period must exceed US \$500.00 (Five Hundred US Dollars) for wire and \$100 (One Hundred US Dollars) for other payment methods.
- Commissions due and payable by the Program to an Affiliate will not accrue interest.
- Payments to an Affiliate in accordance with this Section will be based upon the records kept by the Program and reported in the Program's online reporting system and audited by the Clients, from time to time.

## **10. Remedies**

In addition to any other rights and remedies available to Company under this Agreement, Company reserves the right to delete any Action submitted through the Links and withhold and freeze any unpaid Commissions or charge back paid Commissions to the Account if (i) Company determines that Publisher has violated this Agreement, (ii) Company receives any complaints about Publisher's participation in the Publisher Program which Company reasonably believes to violate this Agreement, or (iii) any qualified Action is later determined to have not

met the requirements set forth in this Agreement or on the Publisher Program. In the event of a material breach of this Agreement, Company reserves the right to disclose Publisher's identity and contact information to appropriate law enforcement or regulatory authorities or any third party that has been directly damaged by Publisher's actions.

### **11. Non-Circumvention.**

Affiliate shall not solicit or recruit, directly or indirectly, any Advertiser that is known to Affiliate to be an Advertiser of MediAdvice, for purposes of offering products or services that are competitive with MediAdvice, nor contact such Advertisers for any purpose, during the term of Affiliate's membership in the MediAdvice Network and for the twelve (12) month period following termination of Affiliate's membership in the MediAdvice Network.

### **12. Indemnification**

MediAdvice shall defend, indemnify and hold You harmless from and against any judgment, loss, damage, claim or expense arising out of any breach of any representation or warranty of MediAdvice set forth herein. Publisher shall defend, indemnify and hold MediAdvice, its Clients and each of their respective parents, publishers, subsidiaries, officers, partners, members, managers, employee, agents and attorneys harmless from and against any and all judgments, losses, damages, costs and expenses (including reasonable attorneys' fees), claims, allegations, and/or expenses arising out of, without limitation:

- You and/or Your Sub-Publisher's use of the Website, Network, Programs, Campaigns, and/or the Marketing Service, or an act or omission caused by You and/or Your Sub-Publisher;
- any breach of any representation or warranty set forth herein, including representations of Publisher's compliance with United States state and federal laws and regulations, such as the CAN-SPAM Act of 2003 governing the distribution of commercial electronic communication over the Internet;
- improper use of the Website and/or Service, or improper use of a third party's website or service(s) used in connection with a Campaign from the MediAdvice Network; (d) improper promotion of any Campaign;
- any third party allegation or claim against MediAdvice and/or Clients related to You and/or Your Sub-Publisher's website, e-mails and/or marketing practices; and/or (e) willful misconduct or gross negligence not covered by the terms of this Agreement.

### **13. Limitation of Liability and Disclaimer of Warranties**

ANY OBLIGATION OR LIABILITY OF MEDIADVICE UNDER THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL OF YOUR COMMISSIONS PAID TO YOU BY MEDIADVICE UNDER THIS AGREEMENT DURING THE SIX MONTHS PRECEDING THE CLAIM. NO ACTION, SUIT OR PROCEEDING SHALL BE BROUGHT AGAINST MEDIADVICE MORE THAN ONE YEAR AFTER THE TERMINATION OF THIS AGREEMENT. YOU AGREE THAT MEDIADVICE SHALL NOT BE LIABLE TO YOU, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, A CLAIM BY ANOTHER PUBLISHER OR A CLIENT), FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODWILL, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM. PUBLISHER RECOGNIZES AND ACKNOWLEDGES THAT THIS LIMITATION OF DAMAGES IS FAIR AND REASONABLE.

THE WEBSITE, PROGRAMS, CONTENT, CAMPAIGNS, CLIENTS' UNDERLYING PRODUCTS AND SERVICES, AND MARKETING SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ALL WARRANTIES, EXPRESS AND IMPLIED, ARE DISCLAIMED (INCLUDING, WITHOUT LIMITATION, THE DISCLAIMER OF ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY AND/OR FITNESS FOR A PARTICULAR PURPOSE). THE WEBSITE, PROGRAMS, AND/OR CLIENTS' UNDERLYING PRODUCTS AND SERVICES MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS. MEDIADVICE HAS NO LIABILITY, WHATSOEVER, TO PUBLISHER OR ANY THIRD PARTY, FOR PUBLISHER'S USE OF, OR INABILITY TO USE, THE WEBSITE, PROGRAMS, AND/OR CLIENTS' UNDERLYING PRODUCTS OR SERVICES AND PATREND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, THAT PUBLISHER'S USE OF SAME WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ANY OF THE PROGRAMS WILL BE AVAILABLE TO PUBLISHER. THE NEGATION OF DAMAGES SET FORTH HEREINABOVE IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN MEDIADVICE AND PUBLISHER. THE WEBSITE, PROGRAMS AND/OR CLIENTS' UNDERLYING PRODUCTS AND SERVICES WOULD NOT BE PROVIDED TO PUBLISHER WITHOUT SUCH LIMITATIONS. MEDIADVICE MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY RESULTS OBTAINABLE THROUGH THE WEBSITE AND/OR PROGRAMS. NO ADVICE OR INFORMATION, WHETHER VERBAL OR WRITTEN, OBTAINED BY PUBLISHER FROM MEDIADVICE AND/OR ANY CLIENT BY AND THROUGH THE WEBSITE AND/OR PROGRAMS SHALL CREATE ANY WARRANTY, REPRESENTATION AND/OR GUARANTEE NOT EXPRESSLY STATED IN THE AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, MEDIADVICE'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### **14. Indemnification.**

Affiliate hereto agrees to indemnify and hold harmless MediAdvice, Advertiser, and each if its agents, officers, directors and employees against all liability to third Parties resulting from the acts or failure to act of such indemnifying Party, or any act of its customers or users. Affiliate is solely responsible for any legal liability arising out of or relating to the Affiliate's website(s), any material to which Users can link through the Affiliate's website(s) and/or any consumer and/or governmental/regulatory complaint arising out of any privacy breach, regulatory compliance issue, e-mail campaign or other advertising campaign conducted by Affiliate, including but not limited to any Spam or fraud complaint and/or any complaint relating to failure to have proper permission to conduct such campaign to the consumer.

#### **15. Force Majeure**

Neither You nor MediAdvice shall be liable to the other by reason of failure or delay in the performance of its obligations hereunder on account of telecommunications, Internet or network failure or interruption, results of computer hacking, acts of God, fires, storms, war, governmental action, labor conditions, earthquakes, natural disasters or any other cause which is beyond the reasonable control of such Party.

**16. Confidentiality.**

Affiliate agrees to refrain from disclosing MediAdvice's confidential information or the Advertiser's confidential information (including but not limited to commission rates, conversion rates, email addresses, fees, identities of Advertisers) to any third-Party without prior written permission from MediAdvice.

**17. Termination**

- This Agreement may be terminated by either Party. This Agreement may be terminated immediately upon notice for your breach of this Agreement.
- An Advertiser may terminate Affiliate from the Advertiser's program for any or no reason.
- Upon termination of this Agreement, any permissions granted under this Agreement will terminate, and Affiliate must immediately remove all Ads and link to Advertiser(s).

**18. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A facsimile or electronic signature, or reasonable indication of assent through electronic means, shall have the same force and effect as a handwritten signature.