

# TERMS & CONDITIONS

Effective Date: September 1, 2020



The following advertising Terms and Conditions of Gäbl Media, Inc. ("Terms"), together with the applicable Insertion Order ("Order"), are an agreement ("Agreement") between the Customer identified on the Order ("Customer") and Gäbl Media, Inc. (GM). These full Terms and Conditions can also be found online at <https://gablmmedia.com/tc>. No conflicting or additional terms appearing on contracts, orders or copy instructions will be binding on GM. "Customer" includes any advertising agency utilized by an advertiser or Customer client; all obligations, warranties, and liabilities of Customer are joint and several with its agency.

## General Terms and Provisions

Invoicing and Payment: Payment terms for all Gäbl Media, Inc. are due prepaid for services in full, unless separate arrangements have been made with GM to receive payment at Net 30 days from invoice date. GM will invoice Customer unless Customer requires GM to bill its agency directly.

GM may charge a 1.5% per month interest fee on all invoices that are over 30 days in arrears. Customer will reimburse GM for the cost of any collection or attorney fees utilized by GM to collect unpaid amounts. Customers more than 60 days in arrears on any GM invoice must pay all outstanding invoices before any current or future insertions will be accepted. If Customer is an agency, both agency and principal Customer are jointly and severally liable for all payments owed. GM reserves the right to notify principal Customer regarding any overdue and unpaid invoices.

If contract includes native and/or content development services, payment terms for such services are due 50% upon signature and 50% upon the earlier of product launch or (2) months after signing.

Short Rates, Discounts, Credits and Rebates: Negotiated discounts are available only during the period for which they are earned. Agreements for advertising frequency or multi-platform discounts are conditioned on the agreed amount of advertising being delivered within the specified period, and all invoices being timely paid. If Customer cancels any portion of the order, or fails to have paid for the contracted amount of advertisements or sponsorships, the rate discount will be retroactively nullified and a short rate will apply. The short rate will be calculated at the difference between the rate charged on the contracted program and the higher rate based on the open published rates for the contracted advertising. Any value-added components executed by GM in reliance of advertising that is cancelled will be paid for by Customer at the published open rates for those delivered ad elements. Credits or rebates will only be earned if all advertising is paid for by the due date. Unused advertising credits will expire six months after the end of the period in which they were earned.

Cancellations and Revisions: Except for cancellations made in congruence with to the terms of this Agreement, Customer is fully responsible for all products or services purchased pursuant to this Agreement.

Advertising Discretion: GM may reject or cancel any advertising at any time, for any reason.

Errors: GM is not responsible for errors or omissions in any advertising materials provided to Customer for review in going live on site, in audio, or for Customer changes made after five days prior to launch date for any product.

GM's liability for errors made by GM shall be limited to a prorated credit based on the relative amount of ad inventory corresponding to the error, not to exceed the total amount paid to GM for the individual advertisement in question. GM shall have no liability unless GM's error or omission is brought to GM's attention within thirty (30) days after the advertisement is first launched in market. GM will have no liability due to force majeure events, nor will GM own liability for consequential, indirect, incidental, punitive, special or exemplary damages.

Warranties and Indemnity: The placement of any advertisement with GM constitutes a representation by the Customer that they are authorized to express the entire contents and subject matter. Customer represents, claims and warrants that any ad messaging, practices, services, products or website associated with the ad messaging, complies with applicable consumer privacy and protection laws, and does not violate any personal or proprietary rights. Customer agrees to defend, indemnify and hold harmless Gābl Media, Inc., and its employees and representatives, against any and all liability, damage, loss, and/or expense of any nature. This may include, but not be limited to, attorneys' fees or associated losses that may arise from any claims or suits.

Termination: Gābl Media, Inc. may choose to terminate the relationship for the breach of any term. Should GM choose to exercise this action, short rates or incurred charges may still apply, and be immediately due and payable by the Customer. This right of termination also extends to any of the Customer's agencies or intermediary representatives.

Applicable Law and Courts; Attorney Fees: This Agreement is governed by the laws of North Carolina and any dispute arising hereunder shall be subject to the exclusive jurisdiction of the Federal and District Courts located in Union County, North Carolina. Customer may not assign this Agreement without GM's written consent. The parties hereby consent to the exclusive jurisdiction of such courts. The prevailing party in any such action shall be entitled to an award of its attorney's fees and any other costs to collect.

## Digital Media Terms

Content: Customer understands that GM cannot provide advance notice of the editorial content of sponsored episodes. This includes discussion, positively or negatively, of competitors, brands, products, design, or market dynamics, regardless of sponsorship engagement. This may or may not include booking of competitive products as Customers in the same show, or network environment. All care will be given by GM for editorial integrity, and competitive separation when possible.

Customer understands that Agreement in no way authorizes a grant to editorial control for Customer, at any level. The Agreement does not grant exclusivity to either party with regard to advertising commitment whereby Customer has the right to advertise in other products and mediums, while GM is free to accept Agreements from other Customers as well.

Reporting and Measurement: All available performance reports can be issued at the end of a campaign. GM can make no guarantee or representation to either the volume or quality of downloads, click through rates, subscriber growth rates, churn rates, visits, impressions, leads, sales or ad-based performance. Should GM fail to provide Customer with any guaranteed contracted value from an Agreement, the remedy will be at GM's sole discretion in the form of either a) an extension of the order until the remainder of the guaranteed impressions are delivered, or b) a partial refund of the amount impacted within the Agreement.

Ad Content: As the creator and approver of ad content, Customer takes full responsibility and agrees to indemnify GM for any third party legal claim made against or regarding the content of Customer's advertisements, including but not limited to fraud, defamation and violation of a third party's intellectual property rights.

Cancellation: Third-party production and native/content are non-cancelable. Social and promotional elements are noncancellable within ten (10) days prior to the start of the campaign.

CAN-SPAM: Advertisements or other commercial messages sent on behalf of Customer via electronic mail may be governed by law, including without limitation the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the "CANSPAM Act") and state "Do Not E-mail" registries. Customer agrees to comply with all applicable laws, rules and regulations and with Gābl Media, Inc.'s policies that are intended to comply with the CAN-SPAM Act.

Warranties and Indemnification: Customer represents and warrants that: 1) none of the advertisements or other materials provided to GM will cause the download or delivery of any software application, executable code, virus, or malicious social engineering (e.g., phishing) codes or features; and 2) that Customer will not conduct or authorize any third party to engage in unlawful or improper actions in connection with GM digital or audio properties. Customer agrees to defend, indemnify and hold harmless Gābl Media, Inc. and its employees and representatives for any third party claims that may arise from or relate to either the linkage of any advertisement on GM's digital properties to other digital material, or any breach or alleged breach of Customer's warranties set forth in this paragraph.

Terms: GM adheres to IAB standards, terms and conditions for applicable digital media products that shall follow the IAB Standard Terms and Conditions for Interactive Advertising for Media Buys One Year or Less, version 3.0. These can be found in their entirety at: [https://www.iab.com/wp-content/uploads/2015/06/IAB\\_4As-tsandcs-FINAL.pdf](https://www.iab.com/wp-content/uploads/2015/06/IAB_4As-tsandcs-FINAL.pdf)