

# STANDARD TERMS AND CONDITIONS

**1. Advertising Services.** By their signatures on this contract, Advertiser and/or Agency, (hereinafter referred to as Advertiser) and Edison Interactive (hereafter referred to as EI), agree that EI shall provide the advertising services specified on the front side of this contract in return for the payments specified and upon the terms and conditions set forth in this contract. The parties agree that the advertising displays produced by EI are the property of, and shall at all times remain in exclusive possession and control of EI. Advertiser acknowledges that no one other than those persons authorized by EI may have access to the outdoor advertising signs and structures described in this contract. Advertiser may not cancel or modify this contract, for any reason, without written approval from EI.

**2. In Service Date/Payments.** Advertiser agrees to pay to EI each month, in advance, the payment specified (including the increased payments applicable to a contract term in excess of 12 months) beginning on the commencement date or pursuant to the Commencement of Billing Terms set forth below, whichever occurs first, and continuing each month until the end of the term of this contract. The payment terms shall be Net 30. As a convenience to Advertiser, EI will send a reminder invoice each month, but Advertiser's obligation will not be dependent upon the receipt of such invoices. If a Security Deposit has been paid, it shall be refunded to Advertiser within 30 days of payment of all invoices, or applied to the last monthly payment due, to be determined by EI at its sole discretion.

**3. Commencement Of Billing.** Advertiser shall furnish approved artwork (scaled, camera-ready, high resolution scans, fonts, and designated colors) or materials to prepare final artwork to EI a minimum of 15 days prior to the commencement date. All artwork provided by Advertiser must be the correct size as noted on this contract. Should the approved artwork or materials not be received a minimum of 15 days prior to the commencement date, EI reserves the right to commence billing. Billing shall commence upon the insertion of the digital file(s) or the agreed upon commencement date, whichever comes first. In no event shall this contract commence later than the last day of the following month after acceptance of this contract by EI. The Advertiser may cancel an Advertisement provided that notice in writing is received by EI within the relevant cancellation period. In respect of Advertisements, the minimum notice period for cancellation by the Advertiser is 30 days unless agreed otherwise. Advertiser must send notice of their intention to cancel to the person who made the booking. Cancellation will only be effective on confirmation of receipt of the notice.

**4. Advertising Agency.** If this contract is signed by an advertising agency, or if Advertiser subsequently appoints an advertising agency to represent Advertiser in its dealings with EI, the term "Advertiser" shall include both advertiser and agency where applicable, and all obligations of the Advertiser shall be joint and several to both the Advertiser and agency. If Advertiser appoints an agency after this contract has been accepted by EI, Advertiser shall notify EI, in writing, of said appointment. However, such subsequently appointed agency will not be entitled to an agency commission under the terms of this contract.

**5. Breach.** Advertiser agrees that failure to make payment of any monthly payment due according to the terms and conditions of this contract shall constitute a material breach of this contract. Upon breach, EI shall have the option to demand immediate payment of the entire remaining unpaid payments for the balance of this contract and/or terminate this contract. In addition to the foregoing, EI shall have the right to immediately remove any advertising provided hereunder and re-sell that space, all options being at EI's sole discretion. Advertiser agrees that upon breach of this contract, EI will suffer damages which cannot reasonably be calculated by any method and that payment of the entire remaining unpaid payments shall constitute liquidated damages sustained by EI. Any breach of this contract by advertiser shall also be a breach of any other contract between advertiser and EI. In such event, EI at its option, may declare any or all such other contracts in default and require the payment of all remaining unpaid payments on any or all contracts between EI and Advertiser. It is further agreed that any delay by EI to act upon said breach of this contract by the advertiser shall in no event be considered as a waiver of such right by EI. Advertiser agrees to pay all reasonable collection expenses, attorney fees, and court costs incurred by EI for the collection of any amounts due and payable to EI, whether a result of breach or otherwise. Any amounts outstanding after 10 days after the due date shall be subject to a late charge equal to \$75.00 or 10%, whichever is greater, on all outstanding amounts. Invoices not paid when due shall bear interest at 3% per month or the maximum legal rate per annum, whichever is greater. Advertiser agrees to pay a \$200 returned check charge for any check returned as "NSF", "Refer to Maker", or otherwise. Advertiser agrees that in the event of such breach that EI will proceed against both Advertiser and Agency for any cause of action that exists, as joint and several obligors.

**6. Copy Approval.** EI reserves the right at anytime to refuse, withdraw or remove any advertising copy, which in EI's sole opinion, is considered objectionable or that attracts negative publicity or controversy from the community. Advertiser agrees to defend, indemnify, and hold EI harmless from any dispute, loss, liability, claims, and demands arising out of the character, content, or subject matter of any copy displayed pursuant to this contract. Advertiser acknowledges that all advertising copy, designs, and artwork developed by EI are the exclusive property of EI for all purposes and may be copyrighted by EI, and will not be copied, reproduced, or released to other parties without prior written approval by EI.

**7. Out of Service.** Acceptance of this contract by EI will be subject to the prior sale and/ or availability of any displays specified. If a location specified in this contract becomes unavailable for any reason during the term of this contract, it may be replaced, at EI's sole discretion, by a location of equal advertising value, or at EI's option, this contract may immediately be terminated and/or cancelled without further liability to Advertiser. In the event any display covered by this contract becomes unavailable, either temporarily or permanently, the Advertiser agrees to accept, as compensation for the loss in advertising service, an extension of the contract term beyond the termination date for a period sufficient to equal the period of advertising service lost and/or a service credit, at EI's sole discretion. Advertiser agrees that any alleged loss of business or business revenue associated with or related to the period of unavailable advertising service is wholly speculative and, as such, Advertiser hereby agrees to waive any claims, suits or causes of action against EI for said loss in return for EI providing the advertising services herein. In the event that a display is not repaired or placed back in service within 5 working days from

notification by Advertiser to EI, a credit will be issued to Advertiser as per the terms specified herein.

**8. Operation.** Standard operation shall be daily from resort open to close each day (generally 8:30am-4pm). In the event a complete failure of the system is not repaired within 5 working days of notification by Advertiser to EI, a credit of 25% of the price paid for that individual location will be provided to the advertiser for the pro-rated time that said system was non-functional, at EI's option, either by other additional advertising service, or by extending the termination date under this contract equal to the amount of said credit.

**9. Display.** EI will strive to provide advertisers with 100% of the time they contract. However, due to problems with power interruptions, emergency notifications (e.g. Ski Patrol Messaging) or other unforeseen interruptions, EI is guaranteeing copy will be displayed an average of 85.7% of the available play time contracted. For purposes of determining whether a credit is due, the average number of guaranteed spots per day will be measured over the duration of the contract, e.g., during a 30 day contract, the available spots during the entire 30 day term of the contract will be calculated and 85.7% of that number will be used as the basis to determine whether a credit is due the Advertiser. If EI has provided 85.7% or greater of available spots, then no credit will be due. Unless otherwise stated herein, a Display shall be one fifteen (15) second segment of an eight (8) minute digital play schedule and will only be counted if the chairlift restraint bar was down for the period of time when the advertisement was scheduled to play, e.g., if the restraint bar was down for four (4) minutes of an eight (8) minute ride, only those advertisements scheduled for 0:00-4:00 of the digital play schedule will be counted.

**10. Non-Liability of EI.** EI shall not be liable for any failure or delay in the performance of its undertakings when due to fire, governmental restrictions, strikes, lockouts, acts of God, court orders, settlements voluntarily reached with local governments, landowner lease restrictions, or any act or thing beyond EI's control.

**11. Technology Change.** EI reserves the right at any time during the term of this contract to convert the system from its present technology to any other outdoor advertising technology and to terminate this contract upon thirty (30) days advance written notice to Advertiser. In such event, Advertiser will be given a first right of refusal to enter into a new contact at the specified location at the new market rate based upon the converted technology.

**12. Hold Harmless.** EI agrees to hold Advertiser harmless from any and all claims or demands on account of physical bodily injury or physical property damage caused by or resulting from any sign structure used for any display covered by this contract, and agrees to carry, at its own cost and expense, adequate public liability insurance covering all such contingencies so long as this contract shall remain in effect. Advertiser agrees to indemnify, defend and hold EI harmless from any and all claims, losses, fines, expenses, fees or demands with regard to any display covered by this contract, or on account of any allegation that the use of any name, picture, or other material in any display, or content provided by Advertiser, is illegal, unauthorized, or damaging in any way to any person, business, organization, association, governmental body, or other entity or infringes, or misappropriates any third party rights.

**13. Assignment.** In the event of a sale, transfer, assignment, trade or termination of the Advertiser's business, Advertiser agrees to pay not only amount then due, but also one hundred percent (100%) of all monthly charges remaining unpaid under this agreement within thirty (30) days after said sale, transfer, assignment, trade or termination, unless (a) said display agreement has been assigned to and accepted in writing by any person, or officer, authorized to bind the firm, corporation or person acquiring Advertiser's business and (b) the assignment is accepted in writing by an executive officer of EI. However, even if EI accepts such assignment, such acceptance shall not release Advertiser from liability for any and all amounts then due and owing EI as well as the balance due over the unexpired term of the display agreement. Should any assignee of the Advertiser breach any term of this display agreement, upon such breach, EI shall be entitled to invoke any of the remedies identified in this agreement or otherwise without further notice to the advertiser, against the Advertiser or the Assignee or both as EI may choose. Except as provided for in this Section this agreement may not be assigned by the Advertiser. This contract may, however, be assigned to a successor, actual advertiser, or agency only with 90 days prior written consent of EI. This contract may be assignable by EI at any time without Advertiser's consent.

**14. Acceptance Of Contract.** The execution of this contract by Advertiser shall constitute an offer to contract. EI will not consider the offer complete until such time as Advertiser tenders payment of any required production costs and completes any required credit application. Advertiser's signature on this contract shall not act as a hold on any advertising space. This contract shall be deemed to have been executed and its terms and conditions enforceable only upon the written acceptance by an officer of EI. Such acceptance shall only be by formal written acceptance on the first page. Advertiser acknowledges that the representative receiving this contract is not authorized by EI to accept this contract or bind EI. Advertiser consents and agrees that EI may investigate and inquire as to the financial status and credit worthiness of Advertiser before or after acceptance of this contract and further authorizes any bank, credit agency or other entity having financial information of Advertiser to respond to EI's inquiries and divulge such information to EI and its agents. Following acceptance, this contract shall be binding upon and shall inure to the benefit of the parties and to their respective heirs, successors, administrators, and permitted assigns.

**15. Written Notice.** Any requirement of written notice under this contract shall mean that notice be in writing and mailed, via certified mail, return receipt requested, to the addresses of the parties listed on this contract or such other addresses as the parties may later designate. Written approval and/or consent by EI shall not be effective until said approval and/or consent is received by Advertiser. For purposes of a notice of termination, the date of mailing, and not the date of receipt, shall be considered the date notice of termination was provided.

**16. Disputes.** This contract has been entered into and executed within the State of Colorado. In the event any action or suit is brought to enforce or clarify any of the terms and/or conditions of this contract, the venue of such said suit or action shall be brought in Arapahoe County, State of Colorado, unless EI provides Advertiser and/or its attorney with written consent, prior to suit being filed, to a venue other than Arapahoe County, State of Colorado.

**17. Disclaimers; Limits.** ALL SERVICES ARE PROVIDED TO ADVERTISER SOLELY ON AN “AS IS” BASIS, WITHOUT WARRANTY OF ANY KIND; AND EI MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, AND EXPRESSLY DISCLAIMS, ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY. EI WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY LOST PROFITS OR LOST REVENUE.

**18. Entire Contract.** Neither party shall be bound by any contract or representation, expressed or implied, not specifically contained in this contract. Advertiser acknowledges that no representations, contracts, or promises whatsoever have been made to Advertiser other than those specifically stated in this contract. This contract is the final and complete contract between the parties, and may not be modified, supplemented, explained or waived by parole evidence, nor by the course of dealing, nor in any other way except by modification or change reduced to writing and signed by authorized