

Buyers Terms and Conditions

Acceptance

By signing Vodacom's Insertion Order form for Mobile Advertising that accompanied this document, you acknowledge that you have read, understood and unconditionally agree to be bound to these terms and conditions.

1. The parties

The parties to this agreement are the Vodacom Mobile Media business unit, a division of Vodacom (Pty) Ltd (hereinafter referred to as "Vodacom") and the party whose details are fully set out on the order form of this agreement (hereinafter referred to as "you" or "your").

2. Definitions

2.1 The following words shall bear the meanings assigned to them below:

2.1.1 "advertisement(s)" means any illustrative, text, graphic, image, video, or other marketing or promotional material provided by you to Vodacom for placement within one or more of Vodacom's Media properties as set out on the order form;

2.1.2 "campaign(s)" means all of the advertisements placed within Vodacom's Media properties in accordance with the details set out in this agreement;

2.1.3 "Advertising site" – means the position (within Vodacom's Media property) of an advertisement, as determined by Vodacom in their sole discretion;

2.1.4 "order form" means the document entitled "Mobile Advertising Insertion Order" that accompanied these terms and conditions;

2.1.5 "this agreement" means the order form, these terms and conditions and any annexure, schedule or addendum attached hereto;

2.1.6 “Business day” means any day other than a Saturday, Sunday or public holiday in South Africa;

2.1.7 “impression” means a single instance of an advertisement being displayed on one of Vodacom’s media properties;

2.1.8 Vodacom’s Media property/ies” means the properties as listed in the Vodacom Advertising Insertion Order

2.2 Annexures, addendums or schedules to this agreement form an integral part hereof. If any provision in an annexure, addendum or schedule is in conflict with a provision(s) in this agreement, effect shall be given to the provision(s) in this agreement.

3. Advertisements

3.1 Advertisement(s) required by Vodacom to give effect to this agreement, shall be supplied by you to Vodacom, in such format as Vodacom may specify from time to time, at least 10(ten) business days prior to the campaign commencing. The current technical specifications for each specific Vodacom Media property are recorded in Schedule 1 hereto. Such specifications may be amended from time to time in Vodacom’s sole discretion. Vodacom shall not be obliged to place any advertisement(s) that does not satisfy its technical specifications with regards to advertising creative dimensions, file type and file size. Should material not be provided timeously or at all Vodacom reserves the right to repeat any advertisement which it received from you previously.

3.2 Vodacom will provide you with regular reports on advertisements placed within Vodacom’s Media properties in such format as Vodacom may in its sole discretion determine.

3.3 The placing of advertisements is subject to availability of space on the Vodacom Media property. Whilst every effort will be made to serve all advertisements exactly as indicated on the order form, strict compliance will not always be possible and Vodacom cannot be held responsible for any advertisements not placed as set out on the order form and/or any

changes in the placement of advertisements. If you wish to change the date, position or content of an advertisement, details of the changes must be supplied to Vodacom in writing 5 business days prior to the campaign start date and Vodacom reserves the right to charge for any additional costs incurred because of such a change.

3.4 Vodacom is not responsible for the design, maintenance or content of your advertisement. All costs in regard thereto are for your own account.

3.5 Advertisements will appear until the agreed number of impressions has been achieved or the campaign end date has been achieved (in the case of PCM).

3.6 Results of the campaign mechanics may be used as a Use case in future Vodacom sales collateral. On request, specific brand information relating to the product or service being advertised, will be omitted and substituted with industry generics.

3.7 No campaign will be considered unless it complies with the minimum volume of 100 000 (one hundred thousand) impressions.

3.8 Any call to action re-directing the user where further terms and conditions may be applicable must be clearly displayed before the consumer purchases any goods or services.

3.9 All advertisements that will be served via a third party must be provided for testing and approval prior to appearing on any Vodacom Media property.

3.10 Vodacom reserves the right to:

(a) serve any advertising on Vodacom's Media properties, including (without being limited to) advertising relating to competing products and/or services

(b) change the format, layout and/or look-and-feel of Vodacom's Media properties;

(c) include any link in the pages within Vodacom's Media properties that

Vodacom, in its sole discretion, deems appropriate.

(d) reject any advertisements that are, in the sole discretion of Vodacom, improper, immoral, unlawful, in contravention of any applicable regulation (including but not limited to regulations passed by any relevant advertising authority), inappropriate for Vodacom's audience, or in conflict with Vodacom's business interests.

You will be duly informed of such decision and allowed 48 hours to rectify the advertisement, failing which you will remain liable for the cost of total campaign value whilst Vodacom will not be liable to serve any advertising on such campaign until the rectified material has been received.

(e) reject and/or suspend any future and/or current campaigns and/or advertisements if you fail to make any payments due to Vodacom on due date in respect of any current or passed campaigns.

(f) take any one or more of the Vodacom Media properties off-line for up to 24 (twenty four) hours for upgrading or maintenance without notice or compensation.

4 Duration & Cancellation

4.1 This agreement shall come into effect on the date that Vodacom indicates to you in writing its acceptance of your order as detailed in the order form and shall endure until the end of the campaign (unless otherwise agreed in writing), subject to the right of either party to terminate the agreement by means of 1 (one) calendar month's prior written notice to such effect to the other party.

4.2 In the event of termination of this agreement for any reason whatsoever, Vodacom shall forthwith remove all advertisements that may appear on Vodacom's Media properties in terms of this agreement.

5 Consideration and payment terms

5.1 In consideration for the advertisements served in terms of this agreement, you will pay to Vodacom the amounts set out in the order form.

A premium will be levied by Vodacom for special requests and positions.

5.2 The amounts set out on the order form are exclusive of VAT, but inclusive of agency commission, unless being explicitly reflected as being exclusive of agency commission.

5.3 If you are an authorised advertising agency placing an advertisement on behalf of your client, then the amount set out in Vodacom's VAT invoice is payable within 30 (thirty) days of the date of such invoice. If you are placing the advertisement to advertise your own goods or services then the amount set out in Vodacom's VAT invoice is payable immediately upon presentation of such invoice.

5.4 In the event that you cancel any advertising between 30 and 15 days prior to the start of a campaign then you will be liable for 50% of the cost of the campaign. In the event that you cancel any advertising less than 15 days prior to the start of a campaign then you will be liable for the full cost of the campaign.

5.5 Vodacom shall be entitled to give you 30 (thirty) days written notice of any rate increase in any amount set out on the order form. You may within 14 (fourteen) days of such notice by Vodacom, cancel the services in writing to which such increase applies, failing which you will be deemed to have consented to such increase and be bound to the amended rates.

5.6 Should you fail to pay any amount to Vodacom by due date, Vodacom shall be entitled, in its discretion and without prejudice to any other rights which it may have in law, to forthwith cancel this agreement, reject and/or suspend any campaign, or suspend performance of any of its other obligations without notice to you.

6. Intellectual property rights

6.1 You hereby grant to Vodacom a worldwide, royalty free license to use the

advertisement, your name, trademark, logo, brand name and/or domain name to the extent necessary to give effect to the provisions of this agreement.

6.2 You hereby warrant that you are, and at all relevant times will be, the lawful owner of the copyright of the advertisement and all the material and content provided by you to Vodacom for the purposes hereof and hereby irrevocably and unconditionally indemnify Vodacom and agree to hold Vodacom harmless against any claim made by any person, howsoever arising from any infringement of copyright and/or infringement of any other intellectual property rights or other third party rights by the advertisements and/or any other material provided by you to Vodacom.

6.3 The parties agree that, except where specifically provided otherwise in this agreement, no party shall obtain any rights of whatsoever nature in or to the intellectual property rights of the other party and that any intellectual property rights developed during the term of this agreement by Vodacom or by the parties acting jointly, shall vest exclusively in Vodacom.

6.4 You will not be entitled to use any of Vodacom's trademarks, logos, brand names, domain names or other marks without Vodacom's prior written approval.

7. Limitation of Liability

7.1 You acknowledge that Vodacom has no knowledge of, nor in any way contributes to, any other content provided to Vodacom in terms of this agreement and that certain kinds of advertisements, content and conduct may be offensive, unlawful, in breach of codes of conduct binding on Vodacom, violations of legislation, violations of the common law generally or violations of the requirements or rules of any regulatory authority and that certain kinds of advertisements, content and conduct may cause harm to the name, goodwill and reputation of Vodacom. You therefore agree that Vodacom may, without derogating from any other rights that it may have, terminate this agreement with immediate effect and without notice to you, should Vodacom, in its sole

discretion, be of the opinion that your advertisement and/or any of the content accessible via link from the advertisement is offensive, unlawful or harmful.

7.2 You agree that nothing that Vodacom does in the exercising of its rights or the performance of its obligations in terms of this agreement or in the carrying on of its business generally shall be construed as an assumption of responsibility or liability by Vodacom for the advertisement and/or the content accessible via a link from the advertisement and/or the conduct carried on the Vodacom Media properties accessible via a link from the advertisement.

7.3 You hereby warrant to and in favour of Vodacom that the performance by Vodacom of its obligations under this agreement will not result in the breach of any applicable law or any third party rights and you hereby irrevocably and unconditionally indemnify Vodacom and agree to hold Vodacom harmless from and against any loss, costs, damages and/or claims suffered or incurred by or instituted against Vodacom as a result of a breach of this warranty.

7.4 Nothing herein or that Vodacom does in performance of its obligations in terms hereof, shall be interpreted so as to give you any form of entitlement in respect of Vodacom's Media properties, other than as provided for herein.

7.5 Notwithstanding any other provision under this agreement, neither party shall be liable to the other party for any indirect and/or consequential damages directly or indirectly resulting from (relating to) this agreement in any manner whatsoever.

8. Confidentiality

8.1 Except as otherwise provided herein, notwithstanding termination of this agreement, the parties agree to treat all information, in whatever form and howsoever recorded, that may reasonably be argued to have commercial value and that a party receives from the other party as a result of this agreement ("confidential information"), as private and confidential and safeguard it accordingly. The parties furthermore agree not to use or disclose

or divulge or copy or reproduce or publish or circulate or reverse engineer and/or decompile or otherwise transfer, whether directly or indirectly, any confidential information to any other person and shall take all such steps as may be reasonably required to prevent confidential information falling into the hands of unauthorised persons.

9. General

9.1 This document contains the entire agreement between the parties in respect of the subject matter hereof and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein and no alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by both parties.

9.2 No indulgence, leniency or extension of time that Vodacom may grant or show to you, shall in any way prejudice or preclude Vodacom from exercising any of its rights in the future.

9.3 You may not, in any manner whatsoever, cede or assign any of your rights or obligations under this agreement without Vodacom's prior written consent.

9.4 Either party may (without prejudice to any of its other rights which it may have in law), terminate this agreement at any time on notice to the other if the other party has committed a material breach of any of its obligations under this agreement and has failed to remedy such breach within fifteen (15) days of receiving notice requiring it to do so.

9.5 This agreement shall be subject to the laws of the Republic of South Africa and the parties submit to the jurisdiction of the South African courts and each party chooses the address set out on the order form of this agreement as its domicilium citandi et executandi ("domicilium") for the purposes of this agreement.

9.6 This agreement may be executed in one or more counterparts all of which shall be considered to be one and the same agreement.