

S4M – GENERAL TERMS AND CONDITIONS OF SALE

1 AGREEMENT

- 1.1 SAM 4 MOBILE INC, a Delaware corporation and trading as S4M (hereinafter referred to as "S4M"), markets an advertising service on mobile phone platforms (also called "S4M") that makes it possible for advertisers to optimise the release of their advertising campaign on such platforms (hereinafter referred to as the "S4M Services"). For the avoidance of doubt, the S4M Services include the release by S4M of Advertising Campaigns and/or Advertising Messages (as defined below).
- 1.2 These general terms and conditions of sale (hereinafter referred to as "GTCS" or "General Terms and Conditions of Sale") and the Purchase Order (as defined below) set out the terms and conditions under which the S4M Services are supplied by S4M to the Advertiser (as defined below).
- 1.3 The Purchase Order and these GTCS, including any other document or contract incorporated by reference, shall hereinafter collectively be referred to as the "Agreement".
- 1.4 The issue of a Purchase Order to the Client and the signature of such Purchase Order by the Client or its Legal Representative entails full and unreserved acceptance of these GTCS by the Advertiser; any stipulation to the contrary detailed in any of the Advertiser's or its Legal Representative's legal documents shall not apply; the Advertiser and its Legal Representative hereby expressly acknowledge and agree that the solely applicable law and jurisdiction will be the GTCS applicable law as mentioned article 23 below.
- 1.5 Where there is an inconsistency between a provision in a Purchase Order and a provision in these GTCS, the terms of the Purchaser Order shall control (subject always to sections 3.1 and 7.1 below).
- 1.6 This Agreement may be amended only in writing signed by duly authorized representatives of the Parties.
- 1.7 S4M reserves the right to amend and update these GTCS at any time. The amended GTCS shall automatically apply to any Purchase Order signed after the amendment date.

2 DEFINITIONS

For the purpose of these General Terms and Conditions of Sale, the following terms used in the singular or plural shall have the following definition:

- "Advertiser": natural or legal person, over the age of eighteen (18) years, prompting and wishing for the release of one or more Advertising Campaign(s) and/or one or more Advertising Messages promoting its products and/or services and/or brand to be made available on Digital Media.
- "Advertising Campaign": simultaneous release of a specific Advertising Message in a selection of Digital Media purchased by S4M and covered by a unique Purchase Order.
- "Advertising Formats": the various display and/or mobile formats stipulated on S4M's website at the following address: www.s4m.io, which on a Digital Medium are intended to feature an Advertising Campaign and/or Advertising Messages and with dimensions in line with the standards recommended by the IAB or the Technical Specifications.
- "Advertising Message": any message by the Advertiser inserted in a Digital Medium which has been the subject of a Purchase Order and may contain items such as graphic design, text, videos, audio and multimedia.
- "Advertising Spaces": advertising locations (pages, sections, etc.) on Digital Media sold by the RTB system.

- "Agreement" shall have the meaning set out in section 1.3.
- "Agreement Data" refers to the data collected within the framework of the Agreement by Trackers which S4M has placed or had placed in Advertising Messages.
- "Click(s) (number of)" refers to the number of times a Mobile Web User activates an Advertising Format.
- "Client": the Advertiser, represented where applicable by its Legal Representative.
- "CPA" or cost per action is a billing method for an Advertising Space or Advertising Campaign in a Digital Medium in relation to the number of times a Mobile Web User activates an Advertising Format and carries out an operation to subscribe, purchase, sign up or any other action defined in advance jointly with the Client.
- "CPC" or cost per click is a billing method taking into account the number of Clicks recorded on the commercial link (text, image or video, etc.) displayed:
 - via a search engine, or
 - on a mobile website; or
 - on a social network; or
 - via a publisher's mobile application that refers a Mobile Web User to the mobile website or application of the Advertiser,

i.e. the purchase cost of Advertising Space on Digital Medium in relation to the number of Clicks obtained from a Mobile Web User in an Advertising Format.
- "CPD" or cost per download is an invoicing method based on the number of download Clicks of the Advertiser's mobile application and the opening of such mobile application.
- "CPM Visible" or the visible cost per thousand is a method for evaluating and billing Advertising Space on Digital Media for display Advertising Formats and equates to the cost invoiced to the Client for one thousand prints and displays the Advertising Message at 100% of its original size.
- "CPL" or cost per lead is the cost per lead acquisition and equates to the cost determinate in the purchase order and invoiced to the Client.
- "CPLP" or Cost per landing page is a unique buying model developed by S4M and based on Media Rating Council (MRC) accredited mobile post-ad metrics to guarantee true user engagements and real conversion.
- "CPO" or cost per opening is an invoicing method based on the number of Clicks of the Advertiser's mobile application covered by the Advertising Campaign.
- "CPV" or cost per visit is an invoicing method based on the number of downloads of the Advertiser's webpage displayed on the Mobile Web User's connected tool after such user has clicked on the Advertiser's Advertising Message.
- "CPVV" or cost per viewed video is an invoicing method based on the number of times a video Advertising Message is broadcast on the mobile tool used by Mobile Web Users.
- "Digital Medium/Media": the mobile internet site(s), tablet(s), application(s) accessed from a mobile tablet via "stores" from application distributors) and/or mobile application(s) on which the Advertising Campaign and/or Advertising Message shall be released.

- "Force Majeure": any unforeseeable event beyond the Parties' control, and/or any unexpected circumstances that create a contract's frustration of purpose, in making performance of the contract impossible, illegal or essentially different from what was contemplated, including, without limitation, any strike, lock out, natural disaster, war, civil war, civil unrest or strife, terrorist attack, or electrical blackout.
- "Interactive Advertising Message": an Advertising Message that allows the Mobile Web User to participate. The said user may, for example, click on an Interactive Advertising Message to receive a sample or other item, take part in a survey or state whether s/he likes an event.
- "Legal Representative": any legal or natural person over the age of eighteen (18) years serving as an intermediary in the name and on behalf of the Advertiser within the framework of a written representation contract to purchase Advertising Space (for example an agency acting under an agency agreement). A copy of the representation contract or, in the absence of such, a representation declaration, must be sent to S4M. S4M shall not be required to fulfill an order placed by a representative whose status has not been evidenced (as determined by S4M in its absolute discretion).
- "Mobile Web User": the person using the internet, irrespective of the method of connection, location or tool used to establish such connection.
- "Parties": refers to the Parties in the Agreement, i.e. the Client and S4M.
- "Purchase Order": the document drawn up by S4M and signed by the Advertiser or its Legal Representative that legally binds the Parties, and which details the specific terms and conditions of the service ordered by the Advertiser or its Legal Representative.
- "RTB Advertising Campaign": Advertising Campaign in which the Advertiser's Advertising Message is randomly present with advertisements from other advertisers on one or more pages or sections in a given Digital Medium and under the conditions (duration and minimum number of Clicks, etc.) stipulated in the Purchase Order signed by the Advertiser and/or its Legal Representative.
- "RTB" refers to the system for purchasing Advertising Space by bidding in real time for the Digital Medium in the Advertising Format selected by the Advertiser or its Legal Representative.
- "Targeted Advertising Campaign": an Advertising Campaign which may be released via SMS, DISPLAY, SEARCH, NATIVE ADVERTISING and/or any other form of communication with Mobile Web Users and which is intended to send such users messages aligned with their interests.
- "Technical Specifications": set of technical constraints issued for the Digital Medium and/or Advertising Format for the Advertising Message in terms of size and weight which must be obeyed by the Advertiser and its Legal Representative.
- "Trackers": Cookies or tags or other current or subsequent technologies which do not make it possible to identify the Mobile Web User as such, but can log information concerning his/her browsing on mobile Websites and/or tablets and/or mobile applications.
- "GTCS" shall have the meaning set out in section 1.1.
- "IAB": Interactive Advertising Bureau.
- "Working Days": any day which is not a Saturday, a Sunday or a bank or public holiday in the United States of America.

- "S4M Data": data that S4M uses to provide the S4M Services and which aggregates the data from previous agreements, data from trustworthy third parties and other data from S4M activities.
- "S4M Services" shall have the meaning set out in section 1.1.

3 **ADVERTISING CAMPAIGN**

- 3.1 Where possible, S4M shall release Advertising Campaigns according to the terms stipulated in the relevant Purchase Order. Notwithstanding the forgoing, S4M shall have complete discretion regarding the release of Advertising Campaigns and, therefore, any terms stipulated in a Purchase Order in relation to the release strategy are provided strictly as a guide and for information purposes only, which the Client hereby expressly acknowledges.
- 3.2 For RTB Advertising Campaigns, S4M shall use reasonable efforts to deliver the minimum number of Clicks stipulated in the applicable Purchase Order for the term of release set out in the Purchase Order.
- 3.3 In the event that the minimum number of Clicks stipulated in the Purchase Order is not achieved at the end of the initially agreed term of release, S4M shall not be in breach of this Agreement but shall invoice the Client only for the proportion of Clicks actually achieved so that by way of example only, if the Purchase Order stipulates that the fee is \$100 for 1,000 Clicks but only 500 Clicks are realized, then the fee will be \$50 instead of \$100. Where applicable, the Parties shall jointly agree on an extension to the RTB Advertising Campaign to allow S4M time to meet the target number of Clicks, thus entitling S4M to full payment.

4 **PURCHASE ORDERS**

4.1 ORDER REQUESTS

Order requests shall be sent to S4M either by email or by USPS first class mail in each case, marked for the attention of "Finance service".

4.2 PURCHASE CONFIRMATION

- (a) S4M reserves the right to accept or reject an order request. Where S4M wishes to proceed with an order request, S4M shall send the Advertiser or its Legal Representative (if applicable) a Purchase Order which may stipulate in particular:
- (i) the name and contact details of the Advertiser;
 - (ii) where applicable, the name and contact details of the Legal Representative in the event that the purchase of advertising space via the signature of the Purchase Order is carried out by such;
 - (iii) the brand, product or service to be promoted;
 - (iv) the targeting criteria for Mobile Web Users, Advertising Messages or the Advertising Campaign and the quantified objective (number of Clicks per minimum CPC, CPM or CPA invoicing method expected by the Advertiser) over the release period;
 - (v) the desired Advertising Format;
 - (vi) the start date for the release and, if necessary, the end date of the Advertising Campaign; and
 - (vii) the net amount payable according to the prices agreed by S4M and the Advertiser or its Legal Representative.

- (b) The Purchase Order sent by S4M is valid and open for acceptance by the Advertiser or its Legal Representative for fifteen (15) calendar days with effect from its issue date by S4M, provided always that it must be returned no later than five (5) Working Days before the proposed start date of the release of the Advertising Campaign or Advertising Message, along with:
 - (i) the Advertising Message in question, including advertising creation items along with any technical documents which the Advertiser or its Legal Representative wish to be included, the technical characteristics of which comply with the Technical Specifications applicable to the Digital Media and Advertising Format(s) concerned; and
 - (ii) a copy of the Legal Representation agreement or, in the absence of such, a certificate of representation, in the event an order is placed by a Legal Representative.
- (c) A template Purchase Order is attached to these GTCS for information purposes only (not for completion by an Advertiser or its Legal Representative).
- (d) The Advertiser or its Legal Representative must obtain an electronic acknowledgement of receipt for each Purchase Order that it signs and submits to S4M to ensure that the Purchase Order has indeed been received by S4M.

4.3 PURCHASE ORDER REJECTION

- (a) S4M shall not under any circumstances be required to fulfill Purchase Orders that have not been signed by the Advertiser or its Legal Representative.
- (b) S4M reserves the right at any time to refuse to fulfill any advertising instruction or to suspend any advertising instruction if (i) it does not appear that the applicable Purchase Order complies with these GTCS and in particular this section 4.3, and/or (ii) it does not appear that the Client is complying with the Technical Specifications, and/or the editorial line of S4M or of the Digital Medium, and/or IAB guidelines, and/or (iii) such instructions might in any way undermine the image or interests of S4M (or any of its associated companies or entities) and/or the Digital Medium.
- (c) Where S4M rejects or cancels a Purchase Order and/or any instructions in accordance with this section 4.3 (or any other provision in these GTCS), S4M shall not be under any liability whatsoever to the Advertiser (or, for the avoidance of doubt, its Legal Representative(s) and any interested third party).
- (d) [S4M reserves the right to cancel a Purchase Order at any time prior to the applicable release start date without any liability whatsoever to the Advertiser (or, for the avoidance of doubt, its Legal Representative(s) and any interested third party).]
- (e) For the avoidance of doubt, any orders failing to stipulate all the information listed above and/or, if applicable, where no representation certificate for the Legal Representative has been supplied, may not be taken into account by S4M.

5 **LEGAL REPRESENTATIVE (IF APPLICABLE)**

- 5.1 The Advertiser is required to fulfil the undertakings contracted by its Legal Representative. The Purchase Order is specific to the Advertiser and may not be amended without written authorization from S4M and may not in any manner be transferred by the Advertiser or Legal Representative to any third party.
- 5.2 In the event that the Legal Representative is replaced or terminated at any time while any services are being provided to the Advertiser by S4M or are to be provided to the Advertiser by S4M, the Advertiser shall immediately notify S4M in writing (with acknowledgement of receipt), and such replacement or termination shall only take effect from the date of receipt by S4M of the applicable valid notice. For the

avoidance of doubt, the Advertiser remains personally bound to fulfil the obligations set out in the Purchase Order.

- 5.3 Notwithstanding anything else contained in this Agreement, the Legal Representative and the Advertiser remain in all events jointly and severally liable with regard to S4M for the implementation of all the obligations, undertakings and warranties incumbent upon the Advertiser, Client and Legal Representative under the terms of these GTCS, the Technical Specifications and any Purchase Order and in particular the implementation of all payment undertakings and obligations of the Advertiser.

6 POSTPONEMENT OR CANCELLATION BY THE CLIENT

- 6.1 The Client may cancel or postpone any Purchase Order at least three (3) Working Days before the release start date (as set out in the Purchase Order) by notice in writing to S4M, without any charge. No cancellation or postponement request by the Client after the release start date shall be accepted by S4M and 100% of the full fee for fulfilment by S4M of the Purchase Order shall apply.
- 6.2 For proper postponements of Purchase Orders effective within the three (3) Working Days before the release start date, excluding any postponement due to Force Majeure circumstances, a fee equal to 20% of the full fee set out in the Purchase Order shall be automatically applied. For the avoidance of doubt, the full fee for fulfilment by S4M of the Purchase Order at the later release date will still apply.
- 6.3 For proper cancellation of a Purchase Order effective within the three (3) Working Days before the release start date, excluding any cancellation due to Force Majeure circumstances, the Client agrees to be billed a fee equal to 30% of the full fee set out in the Purchase Order.
- 6.4 Any notice under this section 6 may be issued by email provided always that an electronic acknowledgement of receipt is obtained.

7 AVAILABILITY OF ADVERTISING SPACE AND POSTPONED RELEASES

- 7.1 Given the unpredictable nature of the purchasing market for Advertising Space using the RTB technique, release dates for Advertising Campaigns or Advertising Messages are issued as a guide only and without guarantees (even where particularized in a Purchase Order).
- 7.2 Consequently, in the event that release is postponed, the Client shall contact S4M in order to agree on a new release date.
- 7.3 If no new release date can be agreed upon between the Parties, Advertising Space not used for the Advertising Campaign or Advertising Messages shall not be invoiced and S4M shall not be under any liability whatsoever to the Advertiser (or, for the avoidance of doubt, its Legal Representative(s) and any interested third party).
- 7.4 Advertising Spaces is always proposed by S4M to Client subject to availability at the time of acceptance of the Purchase Order and/or release dates(s).
- 7.5 In addition to the cases stipulated in section 3 herein, S4M may also be prompted to move, neutralize, abandon or delete the Advertising Campaign or Advertising Message for the following reasons, or for any other reasons beyond S4M's reasonable control:
- (a) following a request from Digital Media;
 - (b) in the event that posting is impossible (technical difficulties) arising in particular from non-compliance by the Advertising Campaigns or Advertising Messages with Technical Specifications;
 - (c) as a result of an order issued by any official authorities; or
 - (d) in the event of Force Majeure,

and in such cases, S4M shall inform the Advertiser or its Legal Representative accordingly, and S4M shall not be deemed in breach of this Agreement.

8 ADVERTISING MESSAGE

- 8.1 The Advertising Message and its delivery by the Client to S4M must comply with the terms and conditions of this Agreement including, without limitation, this section 8.
- 8.2 Any delivery delay by the Client shall release S4M from any applicable delivery obligations for the Advertising Campaign and/or Advertising Message and the Client shall pay in full even if publication could not be realized and no complaint may be made by the Client for such failure.
- 8.3 The Client hereby warrants, represents and confirms that it is and shall remain the legal and beneficial owner of its brands, logos and of the Advertising Message (including all intellectual property rights therein).
- 8.4 The Client hereby grants S4M a worldwide irrevocable and fully transferable royalty free licence to use, reproduce, release and represent the Advertising Message for the purpose of enabling S4M's release of the Advertising Message on Digital Media and the provision of the S4M Services hereunder.
- 8.5 The Client hereby grants S4M the right to edit, adapt and amend the Advertising Message to comply with the Technical Specifications.
- 8.6 The Client hereby warrants, represents and confirms that (a) all Advertising Messages (which for the avoidance of doubt includes Interactive Advertising Messages) comply with all applicable laws, legislation and regulations, and (b) that it owns all intellectual property rights required for the release by S4M of the advertising design of the Advertising Message and such designs and Advertising Messages and the use thereof do not and will not infringe the intellectual property rights of any third party in any way.
- 8.7 S4M shall have no liability for Advertising Messages which are released on Digital Media, as such release is the sole liability of the Advertiser or, where applicable, the joint and several liability of the Advertiser and its Legal Representative. Accordingly and without prejudice to the indemnity at section 16, the Advertiser and its Legal Representative (if applicable) shall indemnify S4M jointly and severally against any recourse and shall compensate S4M for any costs, charges and expenses incurred as a result of such Advertising Messages and their release including legal fees and costs.
- 8.8 The Client undertakes to provide Advertising Messages free of viruses and/or any other similar item which might affect the said Advertising Messages. In the event of hacking, the Client undertakes to delete the hacked Advertising Message forthwith. In all events, S4M may withdraw any hacked Advertising Message without delay or prior notification or those containing a virus or item of a similar nature without prejudice to any further damages and in this case, the Client may not claim any compensation as a result of such withdrawal.
- 8.9 S4M reserves the right to refuse any Advertising Message it considers contrary to appropriate presentation, behavior or its editorial line. S4M also reserves the right to reject any Advertising Message whose origin appears suspicious or which may contravene the rules of its profession, as well as those that may undermine public order, decency or shock moral, religious, cultural or political convictions of Mobile Web Users and, in this case, the Client may not claim any compensation as a result of such withdrawal. The Client shall not construe the fact that S4M has not reserved its right under this Section 8.9 regarding any Advertising Message, to mean that S4M has agreed to the content of such Advertising Message. As a result, S4M may withdraw its consent and reject any approved Advertising Message and shall reserve all its rights under this Agreement in connection thereto.

9 STATISTICS AND ADVERTISING CAMPAIGN IMPLEMENTATION REPORT

- 9.1 S4M shall use its own reporting tools to calculate the results of an Advertising Campaign and/or reach of an Advertising Message. The Client hereby agrees that S4M's statistics and results are definitive and

controlling over all other data and in particular those which the Client may have collected by inserting Trackers, as per section 10 herein.

- 9.2 During an Advertising Campaign S4M shall allow Client access to its on-line reporting tool for the Advertising Campaign.
- 9.3 After the Advertising Campaign, a final report shall be sent to the Client. Such report shall serve as the basis for issuing the corresponding invoice drawn up and sent by S4M.
- 9.4 If the Client wishes to dispute S4M's results, it must do so by serving notice in writing to be sent by certified letter return receipt requested to the S4M complaints department at the address specified in the Purchase Order stipulating the items in dispute. The said request must be sent within one month following the publication of the applicable Advertising Campaign or Advertising Message. Any complaints that do not comply with this section 9.4 shall not be taken into consideration.

10 PERSONAL DATA AND INSERTION OF TRACKERS (COOKIES, TAGS OR OTHER)

- 10.1 The Client accepts that S4M places or ensures the placement of Trackers in the Client's Advertising Messages in order to provide the S4M Services.
- 10.2 S4M shall collect and use the data obtained from such Trackers in accordance with applicable laws and regulations, including laws regulating the protection of personal data and privacy in the United States of America.
- 10.3 Given the insertion of said Trackers for the purpose of Targeted Advertising in Advertising Messages, the Client undertakes to include in its own Digital Media the requisite measures to inform and obtain the consent of users, as stipulated in applicable laws and regulations and including in particular laws regulating personal data and privacy.
- 10.4 The Client undertakes (a) to inform S4M without fail and to obtain S4M's formal written consent before Client itself inserts Trackers in advertising designs and Advertising Messages that it sends to S4M with the intention of collecting the connection data of Mobile Web Users, and (b) to comply with the obligation to inform and secure the consent of Mobile Web Users incumbent on the publishers of sites, operating systems, applications, social networks and publishers of solutions to measure audience figures according to all applicable laws, legislation and regulations.
- 10.5 Where specified in a Purchase Order, the Client undertakes to collect only connection data of Mobile Web Users exclusive of all other personal data.
- 10.6 The Client is required to comply with current laws, legislation, including COPPA Act, and regulations and in particular to ensure the security and confidentiality of collected data. The Client shall accept all the direct and indirect consequences which may arise from failure to comply with legal provisions without any liability to S4M.
- 10.7 S4M may implement any measure it deems necessary (in its absolute discretion) to prevent the integration of Trackers in Advertising Messages and in particular:
- (a) in the event of failure by the Client to comply with its statutory or regulatory requirements; and/or
 - (b) in the event of technical breakdown relating to the integration of Trackers that endanger the security of Digital Media concerned.
- 10.8 Immediately following S4M's request and instruction, the Client shall amend and/or deactivate Trackers inserted in Advertising Messages.

- 10.9 The Client shall provide S4M with a tracking tool to enable S4M to access data collected using Trackers inserted in advertising designs including those in Advertising Messages.
- 10.10 The Client shall be liable for the correct operation of the tracking tool and in particular for correcting as quickly as possible any malfunction indicated to the Client by S4M.
- 10.11 For Interactive Advertising Message, the Client undertakes to collect only the responses from Mobile Web Users and/or nominative information contained in the responses it receives in accordance with all applicable laws, legislation and regulations in effect with regard to personal data.
- 10.12 Without prejudice to the indemnity at section 16, the Client shall hold harmless and indemnify the S4M Indemnitees (as such term is defined in Section 16) and keep S4M indemnified on demand from and against all losses, costs, liabilities, damages, expenses (including reasonable attorney's fees and legal expenses), claims and proceedings incurred and/or suffered by S4M arising out of or in connection with Mobile Web Users and/or S4M's or Client's use of data collected from Mobile Web Users.

11 **INTELLECTUAL PROPERTY**

- 11.1 Each of the Parties remains the exclusive proprietor of the intellectual property rights it owned before entering into this Agreement.
- 11.2 S4M is the sole owner of all intellectual property rights relating to the S4M Services. This Agreement shall not equate to any form of license or transfer of know-how from S4M to the Client.
- 11.3 The Client grants to S4M an irrevocable, royalty free and fully transferable license for all rights contained in the Advertising Message in order for S4M to fulfil its obligations under the Agreement, as more particularly set forth in section 8.3; provided, however, that S4M disclaims any liability regarding the content of the Advertising Message and the Client shall full indemnify S4M for any liability arising out of the content of the Advertising Message as more fully described in section 16 below.
- 11.4 The Client acknowledges and accepts that:
 - (a) S4M collects, uses, analyzes and processes Agreement Data, and combines it with S4M Data in order to provide the S4M Services as set out in this Agreement; and
 - (b) S4M combines and aggregates Agreement Data with S4M Data in order to improve the S4M Services and S4M's know-how.

12 **PRIVACY POLICY**

Except as provided in S4M's Privacy Policy, which terms and conditions are incorporated in the these GTCS by reference, S4M will not sell or disclose the Client's "personal information" (as such term is defined in the Privacy Policy) to third parties without the Client's explicit consent, unless otherwise provided in this Agreement.

13 **LIABILITY OF S4M**

- 13.1 S4M markets a service entailing the release of advertising campaigns in Advertising Spaces purchased from third parties. Accordingly, S4M, is bound only to use its best commercial reasonable efforts to deliver the S4M Services hereunder and may not be held liable in the event of any breakdowns in technical infrastructure of the Digital Medium in question, which is operated by any third parties.
- 13.2 S4M cannot be held liable for services and/or content for which access is achieved through hypertext and/or hypermedia links made available by the Client.

- 13.3 Client understands that S4M is not the author of any content of Advertising Message provided by Client and that S4M can in no event be held responsible for any liability arising out of such Advertising Message released in advertising campaigns or Advertising Spaces by S4M.
- 13.4 The Client hereby accepts that all Digital Media may be subject to intrusions by unauthorized third parties and consequently may be corrupted and that information on the internet is not protected against third party actions such as downloads, possible circumventions or any viruses and that any third party may create hypertext links.
- 13.5 S4M does not guarantee the success of any Advertising Campaign or Advertising Message or the results desired for such by the Client.
- 13.6 Subject always to sections 13.7 and 13.8, S4M's total aggregate liability arising from or related to this Agreement (whether in contract, tort including negligence or otherwise) shall not exceed an amount equal to the lower of (1) \$100,000 and (2) the fees paid or payable to S4M by the Client (or on the Client's behalf) under the applicable Purchase Order.
- 13.7 Nothing in this Agreement shall exclude or limit either party's liability with respect to any claims:
- (a) for death or personal injury caused by the negligence of such party;
 - (b) resulting from any fraud including fraudulent misrepresentation made by such party;
 - (c) for which liability may not otherwise lawfully be limited or excluded; or
 - (d) for any deliberate or wilful default by the Client.
- 13.8 S4M shall not be liable for any indirect, special or consequential losses or any loss of profits (whether direct or indirect), loss of goodwill, loss of business, loss of revenue, loss of anticipated savings, or punitive damages.
- 14 PRICE, PAYMENT AND INVOICING**
- 14.1 Given the nature of the S4M Services, and the practical conditions of purchasing Advertising Space via RTB and technological and market developments, no general price scale may be set in the GTCS.
- 14.2 For information purposes, the pricing grids used by S4M may be sent to the Client within 30 (thirty) days of its written request. The Client acknowledges that its pricing grids may change over time and are tailored to the requested service and are therefore for information purposes only.
- 14.3 The prices proposed by S4M may include discounts. The basis for calculating standard discounts applied by S4M may be sent to the Client within 30 (thirty) days of its written request.
- 14.4 Prices for the S4M Services are therefore as set out in the Purchase Order and remain in effect for the term of the Agreement.
- 14.5 Prices are set according to invoicing conditions defined in section 2, including without limitation:
- (a) cost per action (CPA);
 - (b) cost per click (CPC);
 - (c) cost per visible thousand (CPM Visible);
 - (d) cost per visit (CPV);
 - (e) cost per viewed video (CPVV);
 - (f) cost per landing (CPL);
 - (g) cost per landing page (CPLP);
 - (h) cost per download (CPD); and/or
 - (i) cost per opening (CPO).

14.6 **PAYMENT AND INVOICING**

Invoices are payable by check or electronic bank transfer within 30 (thirty) days from the issue date of the invoice. All payments must be made to S4M.

14.7 **PAYMENT BY A LEGAL REPRESENTATIVE AUTHORIZED TO MAKE PAYMENTS**

- (a) In the event that the Legal Representative is expressly authorized to make payments as per the confirmation of its legal representation, a certified copy of the original confirmation must be sent to S4M by such Legal Representative.
- (b) The use of a paying Legal Representative shall not amend the payment terms stipulated in section 14.6. Such representative cannot cite the absence of payment by the Advertiser it represents as grounds for delaying or denying payment to S4M.
- (c) The Advertiser remains in all cases liable for payment of Purchase Orders and any other payments hereunder and shall remain liable for payment in the absence of payment by the Legal Representative it has designated. Payment or advance payment made to the Legal Representative by the Advertiser does not constitute payment hereunder and does not release the Advertiser with regard to its obligations to pay S4M.
- (d) For the avoidance of doubt, in the event that the Legal Representative has paid S4M on Advertiser's behalf, the Legal Representative will not be refunded such payment should the Advertiser fail to pay the Legal Representative in turn.

14.8 In the event of non-compliance with the terms and conditions of payment of invoices issued by S4M, without prejudice to any other rights or remedies available to S4M, S4M reserves the right to terminate the applicable Purchase Order and/or any other Purchaser Orders in place with the Advertiser without prior notification or compensation from S4M to the Advertiser or its Legal Representative.

15 **OVERDUE PAYMENT**

15.1 Failure to pay at the due date shall result in the immediate demand for payment of all issued invoices, including those not yet due as well as the amounts payable for orders fulfilled during invoicing and orders pending release. Fulfilment of current orders may be suspended and/or terminated.

15.2 Similarly, any default on payment at the due date shall result in forfeiture of conditions for payments which S4M may have granted the Client.

15.3 If Client fails to make any payment due to S4M under this agreement by the due date for payment, then, without prejudice to S4M's rights and remedies, Client shall pay interest on the overdue amount at the rate of 1% per month (subject always to a minimum of 6.5% per annum). Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. Client shall pay the interest together with the overdue amount.

16 **INDEMNITY**

The Client and its Legal Representative shall hold harmless and indemnify S4M and its shareholders, directors and officers, employees and assigns (the "S4M Indemitees") to the maximum extent permitted by law, on demand, from and against any and all losses, costs, liabilities, damages, expenses (including reasonable attorney's fees and legal expenses), claims and proceedings incurred and/or suffered by S4M Indemitees arising out of or in connection with:

- (a) any breach of this Agreement by the Client or its Legal Representative; and/or

- (b) any negligent act or omission by the Client or its Legal Representative, or any of their employees, officers, agents and/or sub-contractors in connection with this Agreement; and/or
- (c) any harmful content in the Advertising Message, including, without limitation, any viruses or other harmful or unauthorized tracking program embedded in the Advertising Message, pornographic or other offensive content, any content that violates the rights of any person (including any intellectual property rights), or any content that would violate any part of Section 8 of this Agreement.

17 **EXCLUSIVITY**

S4M does not, through this Agreement or otherwise, grant the Client any exclusivity in any form whatsoever. Consequently, S4M does not guarantee that advertisers competing with the Advertiser are or may not be present on one or more pages or sections in the same Digital Medium taken out by the Client.

18 **NON-WAIVER**

The fact that one or other of the Parties does not exercise any one of its rights under the terms of this Agreement shall not be deemed a waiver by it to exercise said rights which can be established only by a formal declaration of such by the Party concerned.

19 **COMMERCIAL REFERENCE**

The Client expressly grants S4M the right to refer to Client as a client and to ask Client for a commercial reference for other clients, and vice versa.

20 **NOTICES**

20.1 Unless otherwise set out in these GTCS, any notice required to be given under this Agreement shall be in writing and shall be validly served if sent to the other at the address specified in the Purchase Order:

- (a) by hand; or
- (b) by USPS first class mail or recorded delivery,

in each case, at the address specified in the Purchase Order.

20.2 Notices sent by hand shall be deemed to be served on the day when they are actually received. Notices sent by USPS first class mail shall be deemed to be served three (3) Working Days following the day of mailing, and where a notice is evidenced by an electronic acknowledgement of receipt, on the day of receipt as set out on such acknowledgement.

20.3 The parties acknowledge and agree that unless expressly stated in this Agreement, notice given by e-mail shall not constitute valid notice. Furthermore, where a party is required to obtain an acknowledgement of receipt in relation to a notice, the party receiving such notice shall not be obliged to accept such notice where the acknowledgement cannot be produced.

21 **PARTIAL INVALIDITY**

21.1 Should one or more of the provisions stipulated in these GTCS be rendered invalided or be considered or declared such by law, regulation or following a definitive ruling by a recognized court of competent jurisdiction, said provision or provisions shall be deemed unwritten without rendering null and void the entire GTCS or altering the validity of its other provisions, sections and/or stipulations.

21.2 Where applicable, S4M shall undertake the modification of the invalidated provision or provisions referenced in section 21.1 in order to make them legally valid.

22 **ENTIRE AGREEMENT**

- 22.1 This Agreement constitutes the entire agreement and understanding between the parties with respect to the matters dealt with within it and supersedes any previous agreement between the parties relating to such matter.
- 22.2 Each of the Parties represents and undertakes that in entering this Agreement it does not rely on, and shall have no remedy with respect to, any statement, representation, warranty or undertaking (whether negligently or innocently made) by any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.

23 **DISPUTE RESOLUTION**

- 23.1 In the event of any dispute arising out of this Agreement, S4M and the Client will attempt to settle it by private negotiation. To this end, they shall use their respective reasonable best efforts to consult or negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable settlement satisfactory to the relevant parties. In the event that a dispute is not settled by negotiation within a period of four (4) weeks from the date of notification of the dispute (unless the parties agree upon a longer time period), then any party may have recourse to court proceedings on the instigation of any party.
- 23.2 Nothing in the preceding paragraph shall prevent any party from applying to the courts within the United States of America for any interim or provisional relief that may be necessary to protect the rights or property of that party, pending settlement of the dispute.

24 **GOVERNING LAW AND JURISDICTION**

- 24.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of the State of New York, excluding its rules on conflict of laws. The Client expressly waives its right to a trial by jury. The Client expressly agrees that the Courts sitting in the County of New York are the proper venue and that it shall not assert any defenses for improper venue or *forum non conveniens*.
- 24.2 The parties hereby agree and consent to the exclusive jurisdiction and venue in the United States Federal Courts or state courts within the County of New York with respect to all disputes arising out of or in connection with this Agreement.
-

ATTACHMENT

PURCHASE ORDER TEMPLATE

Advertiser		Document vente entête.Dépôt de livraison	
Address		Client/Lieux de livraison	
VAT Number		Client/Lieux de livraison	

Dossier entreprise	Raison sociale
Dossier entreprise	Activité
Dossier entreprise	Adresse
Dossier entre	Dossier
Company N°	Dossier entreprise N° de SIRET
VAT Number	Dossier entreprise N° identifiant

Contact	Collaborateur	E-mail
Collaborateur	Nom et prénom	Portable
Campaign number	Document vente entête	Affaire
Campaign name	Document vente entête	Botâtement vente entête
Flight dates	Document	Document ven

Quote number	Document ven
Date	Document ven

Purchase Order	
Client	Intitulé
Client	Norm et prénom contact
Client	Adresse
Client	Code postal et ville
Client	N° identifiant
Client	Adresse eMail contact

Details	Country	Target Audience	POI	Devices	OS	Creative format	Buying model	Quantity	Rate	Gross Budget
Document ligne.Valeur information libre(4)	Document ligne.Valeur information libre(3)	Document ligne.Valeur information libre(8)	Document ligne.Valeur information libre(7)	Document ligne.Valeur information libre(6)	Document ligne.Valeur information libre(2)	Document ligne.Valeur information libre(5)	Document ligne.Valeur information libre(3)	Document ligne.Quantité	Document ligne.Prix unitaire	Document ligne.Montant HT
Details : Document vente entête.Valeur information libre(5)										
Document vente entête.Valeur information libre(6)										
Acceptance of the quote										
Agreed and signed as well as the company stamp.										
By accepting this Purchase Order, the client is fully aware and agrees to the General Terms and Conditions of Sale listed on the web www.s4m.fr/terms-and-conditions* ; in particular reference to a jurisdiction clause.										
This quote is valid for a period of 15 business days, by which time the client needs to accept this order.										
A penalty of 0.50 % for each delayed month is applicable in cases of late invoice payments.										

Gross Budget (excl. tax)	Pied de docum
---------------------------------	----------------------