

PUBLISHER TERMS AND CONDITIONS

This agreement ("Agreement") is made between Mondo Media, Inc. ("Mondo") and _____ ("Publisher"), and sets forth the terms and conditions that govern Mondo's provision to you of the Mondo Mini Player (the "Player") together with third party content (the "Content"), and your publication of the Player. You must agree to all of the terms and conditions set forth in this Agreement if you desire to be provided with and publish the Player. By completing Mondo's registration process, and signing this agreement, you are agreeing to be bound by all of the terms and conditions of this Agreement.

1. Provision of the Player and Content

1.1 The Player. Mondo will provide you with the Player and Content for you to publish on the web sites that are approved by and registered with Mondo. The Mondo Code (the "Code") enables your registered web site to access the Player and Content, which can then be viewed by your web site's end users. Mondo may change the form and Content of the Player from time to time at its sole discretion.

1.2 Right to Refuse. Mondo has the right to refuse to accept your registration or the registration of any of your web sites at its sole discretion. Without limitation of this right, Mondo may refuse web sites that contain (or have links to) any content deemed inappropriate by Mondo at its sole discretion, including but not limited to: content promoting the use of alcohol, tobacco or any illegal substances; children's sites, pornography content; violence, expletives or inappropriate language; illegal activity; racism or hate; consumer fraud; unlawful spam; pyramid schemes; unlawful investment opportunities or other unlawful advice; or any content that is libelous, defamatory, contrary to public policy or otherwise unlawful.

2. Tracking and Payment

2.1 Tracking software. The Code will contain Mondo tracking software that enables Mondo to track the placement and publication of the Player and calculate any amounts that may be owed to you by Mondo under this Agreement.

2.2 Impressions and Clicks. From time to time, Mondo will notify you of the minimum number of end user impressions or clicks required on the Player displayed on your registered web site.

2.2 Payment. Mondo will pay you a revenue share equal to 50% of Net Revenue (the "Payment"). For purposes of this Section, Net Revenue means gross revenue received by Mondo from advertisements, less all bandwidth, hosting and ad serving costs, content license fees and/or costs, ad sales and commission costs, overhead and other reasonable operational costs. Payment is subject to change based upon performance, as tracked and reported by Mondo. Content on the Player delivered outside the United States may not be calculated by Mondo as part of the Payment. Mondo will not have any obligation to

distribute the Payment unless the Payment is at least \$100 (if you are located in the United States or Canada) or \$200 (if you are located in any other country). Mondo, in its sole discretion has the right to suspend Payment, audit payments or not pay you for a violation of this Agreement.

2.3 Payment Terms. Mondo will pay you for the publication of the Player and Content within 30 days after the end of each calendar quarter in which you publish such Player. Upon notice to you, Mondo reserves the right to change or negotiate a shorter or longer Payment term.

Your Responsibilities

3.1 Your Web Site. You can only register a web site with Mondo if you are its legal owner. The Player provided to you under this Agreement can only be placed on registered web sites, expressly approved by and registered with Mondo.

3.2 Treatment of Code. You are prohibited from modifying the Code in any way.

3.3 Player Location. You are prohibited from placing the Player over another advertisement, on web sites not expressly approved by Mondo, or in such a fashion that may be deceptive or misleading to web site visitors. You are prohibited from delivering the Player as a pop-up advertisement or under any other advertisements. You are prohibited from delivering traffic on or to your web site that displays the Player via adware, desktop programs, spyware or any other illegal ad serving programs. The Player must only run within the javascript of your web site.

3.4 Valid Video Plays and Clicks. You are prohibited from using robots, spiders, auto-spawning browsers, auto-reloading or any other method of generating artificial or fraudulent video plays or clicks. The following are not considered valid video plays or clicks under this Agreement: Video play or Click generating programs, type-ins, hitbots, zero frames, spawning scripts, refresh scripts, framed content pages, free hosting and community or redirection services. The Player must be served from a Mondo server or Mondo serving location. Stored images that are loaded from any other location and clicked are not valid under this Agreement.

3.5 Proprietary Rights. Mondo retains exclusive ownership of all Mondo's trademarks, trade names, slogans, copyrighted works, art work, patented works and trade dress, including but not limited to Mondo, Mondo Media, Happy Tree Friends, Mondo Media Video Network (collectively "Mondo Intellectual Property"). You obtain no rights to Mondo Intellectual Property. Your use of Mondo Intellectual Property is subject to Mondo's advance written approval. All Mondo Intellectual Property shall be reproduced accurately in accordance with guidelines set forth by Mondo from time to time. You agree that you (i) will not contest or deny the validity of, or the right or title of Mondo in or to the Mondo Intellectual Property; (ii) will not encourage or assist others directly or indirectly to do so, either during the term of this Agreement or after its expiration; and

(iii) will not utilize the Mondo Intellectual Property in any manner that would diminish the value of that Intellectual Property or harm the reputation of Mondo.

3.6 Liability. In no event will you hold Mondo liable for the Content on the Player, or for any loss or damage caused by the Player or its publication on your web site.

3.7 Data. Mondo will be the sole owner of all personally identifiable and non-personally identifiable information it collects. You are solely responsible and liable for all use of any data that you collect in connection with the publication of the Player, and must use all such data in accordance with your privacy policy and all applicable laws, regulations and rules.

4. Marketing and Promotional Use

You hereby authorize Mondo to use your name, your web sites name and your web sites logo in Mondo advertising and promotion, media collateral and press releases and on the Mondo web site.

5. Exclusivity, Term and Termination

5.1 Exclusivity. The Player shall be the exclusive ad-supported player of professionally syndicated video content displayed on your registered web site during the Term of this Agreement. You will not display any other such video player on your site at the same time as the Player, nor will you rotate the Player with any other such video player. You will not display or use the Player in any manner other than as authorized under this Agreement.

5.2 Initial Term. The initial term of this Agreement shall be for one (1) year from the date on which your registration is expressly accepted by Mondo, unless terminated earlier as provided in this Agreement (the "Initial Term"). After one year, the term shall automatically renew for additional one (1) year periods, unless terminated by either party in accordance with this Agreement (the "Renewal Terms"). The Initial Term and the Renewal Terms shall be collectively referred to herein as the Term.

5.3 Termination. You may terminate this Agreement anytime for any reason. You must continue to publish the Player configured to run on your web site in accordance with the terms of this Agreement prior to the effective date of termination. Mondo may terminate this Agreement at any time during the Term if Mondo determines, in its sole discretion, that your registered web site quality falls below the standard set by other web sites in the marketplace, fails to deliver any minimum number of impressions or clicks established by Mondo from time to time, or if you breach any provision of this Agreement. Upon the termination of this Agreement, you will immediately remove the Player, Content and Code from your web site. You will be paid, on the same Payment cycle described herein, all amounts due up to the effective date of termination.

6. Your Representations and Warranties

You represent and warrant that:

6.1 You are the owner of all rights, title and interest in, or are validly licensed to use, the entire contents and subject matter and Intellectual Property Rights (as defined below) contained in or displayed on your web site and the domain name(s) for the web site.

6.2 Your web site is free of any "worms", "virus" or other destructive programming or device that could impair or injure any data, computer system, software, property, person or entity.

6.3 Your web site does not violate any applicable laws, rules or regulations, including without limitation, false, deceptive or misleading advertising laws; promotions, gaming and gambling laws; unfair trade laws; laws relating to children and advertising to children, laws relating to adult content; and criminal laws.

6.4 Your web site does not contain any misrepresentation, or any content that is defamatory, libelous or violates any rights of a third party's privacy or publicity.

6.5 Your web site does not and will not infringe any third party's Intellectual Property Rights or other proprietary rights.

6.6 You do not and will not engage in, promote or facilitate illegal or legally questionable activities such as pirating and hacking.

6.7 You hereby grant Mondo the right to track the Player and Content on your web site. For the purposes of this Agreement, "Intellectual Property Rights" means all world-wide intellectual and industrial property rights, whether existing now or in the future, including without limitation copyrights, trade-marks, patents, inventions, industrial designs, trade secrets and information of a confidential nature, and all registrations and applications therefor.

6.8 Your web site does not target to children under the age of thirteen (13) and does not knowingly have end users under the age of thirteen (13).

7. Disclaimers, Exclusions and Limitations

7.1 No Warranty: MONDO, ITS DIRECTORS, OFFICERS, EMPLOYEES, SUPPLIERS AND AGENTS (THE MONDO PARTIES.) DISCLAIM ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM YOUR USE OF THE PLAYER, THE CONTENT AND THE CODE. YOU EXPRESSLY UNDERSTAND AND AGREE THAT: THE PLAYER, CONTENT AND CODE ARE PROVIDED ON AN "AS IS" AND AS AVAILABLE BASIS WITH NO WARRANTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO MONDO'S CLEARANCE OF RIGHTS TO USE, PUBLISH AND/OR SUB-LICENSE THE CONTENT. THE MONDO PARTIES EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL

WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PLAYER, THE CONTENT AND THE CODE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. THE MONDO PARTIES DISCLAIM ANY WARRANTIES REGARDING THE SECURITY, THE CLEARANCE OF RIGHTS, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE PLAYER, THE CONTENT AND CODE. THE MONDO PARTIES DO NOT WARRANT THAT THE PLAYER, CONTENT AND CODE WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE PLAYER, CONTENT OR CODE WILL BE UNINTERRUPTED AND ERROR FREE. YOU UNDERSTAND AND AGREE THAT YOU USE AND PUBLISH THE PLAYER AND THE CONTENT AND USE THE CODE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR WEB SITE, COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE USE OR PUBLICATION OF THE PLAYER OR USE OF THE CODE.

7.2 Limitation of Liability. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL THE MONDO PARTIES BE LIABLE TO YOU OR A THIRD PARTY FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, THIRD PARTY OR CONSEQUENTIAL (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE) ARISING OUT OF YOUR USE, PUBLICATION, MISUSE OR INABILITY TO USE AND/OR PUBLISH THE PLAYER AND/OR THE CONTENT OR USE OF THE CODE, EVEN IF MONDO'S AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (INCLUDING DAMAGES INCURRED BY THIRD PARTIES). SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE FOREGOING LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN NO EVENT SHALL MONDO'S AGGREGATE LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) EXCEED THE AMOUNT OF THE PAYMENTS MADE TO YOU BY MONDO HEREUNDER DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO SUCH LIABILITY.

8. Indemnification

You agree to indemnify, defend and hold harmless Mondo and its parents, members, subsidiaries, affiliates, service providers, licensors, officers, directors and employees from and against any and all claims, lawsuits, demands, actions or other proceedings brought against it by any third party due to, arising out of or related to your (i) use or publication of the Player and the Content, (ii) violation of this Agreement or (iii) violation of any law, regulation or third party rights. You shall pay any and all costs, damages and expenses, including, without limitation, reasonable attorneys fees and costs

awarded against or otherwise incurred by Mondo in connection with or arising from any such claim, lawsuit, action, demand or other proceeding.

9. Miscellaneous

9.1 Independent Contractors. You and Mondo are independent contractors. Neither party is an agent or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for or on the behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either party.

9.2 Entire Agreement. This Agreement sets forth the entire agreement between the parties and supersedes prior proposals, agreements and representations between the parties, whether written or oral, regarding the subject matter contained herein. This Agreement may be modified, supplemented or amended only by mutual agreement of the parties in writing.

9.3 Assignment. You may not assign or otherwise transfer, whether voluntarily or by operator of law, any rights or obligations under this Agreement without the prior written consent of Mondo. This Agreement will inure to the benefit and bind the parties hereto and their respective successors and permitted assigns.

9.4 Arbitration and Governing Law. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of the arbitration will be San Francisco, California. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction, any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy). This Agreement shall be construed and interpreted according to the laws of the State of California without reference to conflicts of law provisions.

9.5 Notice. All written notices between the parties will given by: personal delivery; certified or registered mail (return receipt requested, postage prepaid); or electronic mail via the Internet (with copy sent by certified or registered mail) to the addresses specified in the registration process. Unless otherwise provided herein, all notices shall be deemed to have been duly given on the date of receipt (or if delivery is refused, the date of such refusal) as evidenced by appropriate receipts, electronic answer-back or the like.

9.6 Waiver/ Severability. The waiver by either party of a breach or right under this Agreement will not constitute a waiver of any other or subsequent breach or right. If any

provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction or appointed arbitrator, such determination shall in no way affect the validity or enforceability of any other provision herein.

9.7 Force Majeure. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement where such delay or failure arises by reason of any Act of God, or any government or governmental body, acts of war, the elements, strikes or labor disputes, or other cause beyond the control of such party.

9.8 Mondo Policies. You acknowledge and agree that you will read and agree to abide by the terms of Mondo's Privacy Policy, User Policy and such other policies that may exist from time to time, all of which are or will be deemed to be hereby incorporated by reference into this Agreement.

9.9 Modifications. Mondo reserves the right at any time to modify, suspend or permanently discontinue the Player or Code, or any portion thereof, with or without notice. You hereby agree that Mondo shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Player or Code.

9.10 Feedback. If you have comments on the Player or ideas on how to improve it, please email feedback@mondomedia.com. Please note that by doing so, you also grant Mondo permission to use and incorporate your ideas or comments into the Player without further compensation.

9.11 Customer Service. If you have any questions or concerns about the Player, contact us at customerservice@mondomedia.com. You understand and agree that Mondo is solely responsible for all customer service, help, and issues related to the Player and Code. You agree not to direct any questions, requests for assistance, or inquiries about this Player to your ISP or to any third party from which content has been included on the Player.

9.12 Survival. The following Sections shall survive the expiration or termination of this Agreement: 3.5, 3.6, 3.7, 4, 5.3, 6, 7, 8 and 9.

Signed by: _____ Signed by: _____

Name: _____ Name: Deirdre O'Malley

Company: _____ Company: Mondo Media

Title: _____ Title: Director, Business Development

