

ADVERTISING DATABASE, INC.



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ADVERTISING DATABASE REFERENCE™ EDITION AGREEMENT
STANDARD TERMS AND CONDITIONS

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1. Grant of License

1.1. Nature of Materials. The materials that are the subject of this Agreement consist of the **Advertising Database Reference™ Edition** (hereinafter referred to as the “Website(s)” or “Licensed Materials”).

1.2. Grant of License. Licensor grants to Licensee (Licensee to include a named executive, onsite spokesperson, and point person, all of whom may or may not be the same person) for a specified number of Licensees from a single entity, a limited, non-exclusive, nontransferable, revocable license to use of the Licensed Materials, for the maximum number of users indicated by, and for the Term listed on, the Invoice, and the right to provide the Licensed Materials to Authorized Users (who are defined in Section 3, below) in accordance with this Agreement’s terms and conditions. All Website users must be named individuals who have completed the registration process, and must be the actual named users. Licensee may neither substitute non-registered names, nor provide access to others through a single name being made available to multiple users on a network, nor otherwise share access codes within or without their institution. Licensee is responsible for preventing such unauthorized use. If Licensee believes there has been unauthorized use, it must notify Ad Data immediately.

1.3 Ownership. The Licensee and its Authorized Users (which are defined in Section 3, below) acknowledge that AdData Website(s), and Licensed Materials are licensed, not sold, to Licensee for use during the term of the Agreement. AdData reserves all rights not expressly granted to Licensee in this Agreement.

Licensor retains ownership and title to the Licensed Materials’ copyright and any trademarks or service marks related to the Licensed Materials. Ownership of the Licensed Materials may be subject to terms, conditions, or exceptions set forth elsewhere in this Agreement.

2. Fees

Licensee shall pay: (i) all fees as specified in the Invoice and (ii) all other invoices, without deduction or offset, within 30 days of invoice date, to earn the Prompt Payment Discount set forth in the Invoice. All payments are

non-refundable. The obligation to pay will not operate to extend any payment due date or the term of this Agreement, and AdData waives no rights by accepting late payment. Licensee's payment of all sums due AdData is a condition precedent to Licensee's rights under this Agreement; AdData may withhold use of the Websites and other products and services until full payment is received. Licensee renewal payments not received by first day of a renewal term may also result in withheld products and services, provided that AdData's renewal Invoice was sent at least thirty (30) days in advance of the renewal date. All amounts payable by Licensee are subject to taxes imposed by any governmental entity on the transactions contemplated by this Agreement, excluding taxes based on AdData's net income. When AdData has the legal obligation to pay or collect such taxes, it will invoice Licensee, unless Licensee provides AdData with a valid tax exemption certificate authorized by the appropriate taxing authority.

3. Authorized Users & Use

3.1 Authorized Users. The Licensor and Licensee define "Authorized Users" as the following:

- a. The Licensee's students, regardless of their physical location, for use within the exclusive context of the educational parameters of the Licensee's institution.
- b. The Licensee's employees (faculty and staff), regardless of their physical location, for use within the exclusive context of the educational parameters of the Licensee's institution.
- c. Authorized access to **AdDataReference**[™] by above-defined users is restricted to the institution's IP range, as provided to AdData by the institution.

3.2 Authorized Use. The Licensee and the Authorized Users may access or use the Licensed Materials in ways that are consistent with this Agreement's terms and conditions and the Copyright Act of 1976 (17 U.S.C. § 101, et seq.) (later referred to as the "Copyright Act"), including the Copyright Act's limitations on exclusive rights provisions. Additionally, the Licensee and Authorized Users may access or use the Licensed Materials for the following purposes:

- a. Electronic Reserves. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by Licensee or its parent institution.
- b. Education and Teaching. Licensee and Authorized Users may extract or use information contained in the database for educational, scientific, or research purposes, including extraction and manipulation of information or images for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.
- c. Electronic Links. In accordance with **AdDataReference**[™] Setup and Login Protocol, as posted on www.addatareference.com, Licensee may provide passwords from the Licensor's Web page(s) or Web site(s) to the Licensed Materials.
- d. Caching. Licensee and Authorized Users may make such local digital copies of the Licensed Materials as are permitted by other portions of this Agreement, and as are necessary to ensure efficient use by Authorized Users.

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a. **ADVERTISING DATABASE, INC.**, Advertising Database *Reference*[™] Edition, AdData *Reference*, Advertising Database Canvas, Advertising Database Express, Advertising Database Primer, advertisingdatabase.com, addatareference.com, addata.us, addataexpress.com, addata.net, addata.info, and Advertising Database[®] are among the proprietary copyrights, trademarks, service marks, patents, and logos of Advertising Database, Inc., and Licensee acknowledges and agrees not to expropriate, or to challenge Advertising Database's ownership, or use of, these and other such Company marks.

b. Licensee shall use the Licensed Materials in compliance with applicable Federal, state, and international laws, including those pertaining to email transmissions (in particular, the CAN-SPAM Act, which entails the creation and proper use of in-house email suppression lists), privacy, broadcast faxing, and direct marketing.

c. Licensee shall not use the Licensed Materials in relation to personal credit, employment, or insurance applications.

d. Systematic extraction of data from Website(s) (whether manually or through an automatic process), or monitoring or copying information through programs, scripts, robots, spiders, and other automatic software or devices, is prohibited, unless explicitly licensed by AdData. To protect the Website(s) from such extractions, the Licensee's Invoice and Website access may restrict quantity, frequency, and other measures of content extraction by technical means or otherwise.

e. Licensee may not post content from Advertising Database Website(s) to newsgroups; mail, phone, or fax lists; or electronic bulletin boards, without written permission from the Editor or Publisher.

f. Licensee shall not disrupt or interfere with the security or use of the Website(s) or interfere with or damage the Website(s), including, without limitation, through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial of service attacks, packet or IP spoofing, forged routing or electronic mail address information or similar methods or technology.

g. Licensee shall not infringe any patent, trademark, trade secret, copyright, right of publicity, right of privacy or other right of any party.

h. AdData reserves the right to monitor use of its Website(s) to ensure compliance with the License Agreement, and to interrupt service for *individual users*, or cancel Licensee subscriptions if necessary, without further notice or refund, per Section 5, Term and Termination below.

4. Delivery & Access

The Licensee shall bear all responsibility for browser compatibility, and AdData will incur no liability in connection therewith.

4.1 Delivery. Licensors will provide or otherwise make available the Licensed Materials to the Licensee through telecommunications, network, or Web-based connections between one or more of Licensors' physical, online, or virtual locations, and one or more of Licensee's authorized physical, online, or virtual locations.

4.2 Access and Authentication. Licensors will allow the Licensee and its Authorized Users to have access to the Licensed Materials pursuant to the terms, conditions, directives or specifications set forth in the

- IP addresses as provided to **AdData** by the Institution
- Email address format of the Institution, as provided to **AdData** by the Institution

- Passwords as provided to the individual users by **AdDataReference™**

5. Performance Obligations

5.1 Licensor Performance Obligations. The Licensor agrees that its performance will meet the standards of commercial reasonability under this Agreement's governing law. Additionally, the Licensor agrees to the following performance standards.

- a. Availability of Licensed Materials. The Licensor will make the Licensed Materials available to the Licensee and Authorized Users immediately following payment receipt.
- b. Documentation. The Licensor's Website(s) will provide an up-to-date Service Features and Functions Overview.
- c. Activation support. Licensor will offer reasonable levels of continuing support to assist Licensee Point Person in accessing the Licensed Materials. Licensor will make its support personnel available by email or phone, Monday-Friday from 9:00 A.M. to 5:00 P.M EST for feedback, problem-solving, or general questions.
- d. Training. Licensor will provide appropriate dedicated group training *gratis* to Licensee oriented to the use of the Licensed Materials. Scheduling is done by Licensee Point Person, or by other arrangement mutually agreeable to Licensor and Licensee user group.
- e. Quality of Service. Licensor shall use reasonable efforts to ensure that the Licensor's server or servers have sufficient capacity and rate of connectivity to provide the Licensee and its Authorized Users with a quality of service comparable to current standards in the online information provision industry. Licensor shall use reasonable efforts to provide continuous service with an average of 99% up-time per month. The 99% up-time includes periodic unavailability due to server maintenance; software installation or testing; loading or making available additional Licensed Materials as they become available.
- f. Licensed Materials Problems. If the Licensed Materials fail to operate, display, load or render in conformance with the terms of this Agreement, Licensee shall immediately notify Licensor, and Licensor shall promptly use reasonable efforts to restore access to the Licensed Materials as soon as possible. In the event that Licensor fails to repair the nonconformity in a reasonable time, Licensor shall reimburse Licensee for such problems in a prorated amount that is proportional to the total fees Licensor has paid.
- g. Notification of Modifications of Licensed Materials. From time to time, Licensor may add, delete, or modify portions of the Licensed Materials or its functionality, or migrate the Materials to another format, without liability to Licensor. Such modification will not constitute grounds for termination. However, with the exception of any Materials or functionality furnished or withdrawn based on the execution or termination of agreements with third parties, if these changes, modifications, or migrations in the aggregate render the Licensed Materials substantially less useful to the Licensee or its Authorized Users, the Licensee may treat such modifications as a material breach subject to the Term and Renewal provisions of this Agreement at Section 6, below.
- h. Completeness of Content. Where applicable, the Licensor will cooperate with the Licensee to identify and correct content errors or omissions.

- i. **Withdrawal of Licensed Materials.** Licensor reserves the right to withdraw from the Licensed Materials, in addition to any item or part of an item for which it no longer retains the right to publish, any item which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable.
- j. **Updates.** Licensor will provide content updates quarterly, and regular system and project updates to Licensee as they become available.
- k. **“Click-Through” License Terms.** Licensor requires Authorized Users to agree to terms stated herein, relating to the use of the Licensed Materials, before permitting Authorized Users to gain access to the Licensed Materials (commonly referred to as “click-through” or “clickwrap” licenses). Licensor shall provide Licensee with notice of, and an opportunity to comment on, any terms that materially differ from the provisions of this Agreement. In the event of any conflict between the terms and conditions of a clickwrap or online agreement and this Agreement, the terms of this Agreement shall prevail.

5.2 Licensee Performance Obligations. The Licensee agrees that its performance always will meet or exceed the standards of commercial reasonability under this Agreement’s governing law. Additionally, the Licensee agrees to the following performance standards.

- a. **License Terms Notice.** Licensee shall make reasonable efforts to provide Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement including any access or use limitations concerning the Licensed Materials.
- b. **Protection from Unauthorized Use.** Licensee shall use reasonable efforts to inform Authorized Users of the restrictions on use of the Licensed Materials. In the event any Authorized User makes an unauthorized use of the Licensed Materials, the parties may take the following actions as a cure:
 - i. Licensor may terminate such Authorized User's access to the Licensed Materials;
 - ii. Licensor may terminate the access of the Internet Protocol (“IP”) address(es) from which such unauthorized use occurred; or
 - iii. Licensee may terminate such Authorized User’s access to the Licensed Materials upon Licensor’s request. Licensor shall take whatever steps are necessary, as described in this paragraph, to protect its Website(s) and Licensed Materials from harm and abuse.
- c. **Maintaining Confidentiality of Access Passwords.** Where access to the Licensed Materials is to be controlled by use of passwords, unless mutually agreed that the Licensor is to control access procedures, Licensee Point Person shall issue log-on identification numbers and passwords to each Authorized User and use reasonable efforts to ensure that Authorized Users do not divulge their numbers and passwords to any third party.

5.3. Mutual Performance Obligations. In addition to their respective, specific performance obligations, the Licensor and Licensee agree to be bound by the following performance standards.

- a. **Confidentiality of User Data.** Licensor and Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its Authorized Users. Such data may be used solely for purposes directly related to the Licensed Materials and may only be provided to third parties in aggregate form. Raw usage data, including but not limited to information relating to the identity of specific users and/or uses, shall not be provided to any third party.
- b. **Implementation of Developing Security Protocols.** Licensee and Licensor shall cooperate in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.

6. Term and Termination

6.1 The term of this Agreement (the “Term”) will correspond to the License Dates as set forth in the Invoice, unless earlier terminated as provided below. Renew until forbid applies, and AdData will reinvoice 30 days before the license renewal date at AdData’s then-lowest-qualified rate.

- a. AdData may immediately suspend Licensee’s *individual* users’ rights under this Agreement when it suspects such individuals of unlicensed use of its Website(s), or their contents, by Licensee users, employees, agents, or others posing as qualified users.
- b. AdData may immediately terminate this Agreement: (i) if Licensee breaches any of its obligations under this Agreement, including, without limitation, payment or license restrictions; or (ii) for convenience, provided, however, that if AdData terminates this Agreement for convenience, it will make a pro-rata refund of any advance payments made based on the time remaining in the Term. Termination will be effective immediately upon written notice, without further notice or action by either party.
- c. AdData reserves the right to investigate complaints or reported violations of this Agreement and to take any action it deems appropriate, including, but not limited to (1) blocking access from particular IP addresses and Licensees to AdData’s Website(s), and their respective features; (2) reporting suspected activity to Licensee officials, law enforcement officials, regulators, or other third parties; and (3) disclosing any information necessary or appropriate to such persons or entities relating to user profiles, e-mail addresses, usage history, posted materials, IP addresses, and traffic data.
- d. AdData reserves the right to seek all remedies available at law and in equity for violations of this Agreement.
- e. Upon termination or expiration of this Agreement, Licensee shall immediately delete or destroy any portion of any of the foregoing (including, without limitation, any proprietary information taken from the Website(s), and any documentation in its possession or control, and shall terminate its Licensees’ AdData Website use. All liabilities accruing up to the expiration of the Term or any termination of this Agreement will survive such date. The following provisions will survive expiration or termination: 2, 3a- h, 6b, 8, and 9.
- f. Because internet technology and law change frequently, Advertising Database reserves the right to change Standard Terms and Conditions at any time. Updated versions of the Standard Terms and Conditions will appear on AdData’s Websites, and are effective immediately. Licensee is responsible for regularly reviewing the Standard Terms and Conditions, as provided on the Websites. Licensee’s continued use of AdData Website(s) after such changes have been posted therein constitutes consent to the changes.

6.2 Renewal. This Agreement shall be renewable at the end of the current term for a successive annual term at the lowest qualified rate, unless either party gives written notice of its intention not to renew 30 days before expiration of the current term.

6.3 Early Termination. If either party believes that the other materially has breached any obligations under this Agreement, or if Licensor believes that Licensee has exceeded the scope of the License, such party shall so notify the other party of the alleged breach party in writing. The breaching party shall have 30 days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the 30 day period, the non-breaching party shall have the right to terminate the Agreement without further notice. Once this Agreement ends, by early termination or otherwise,

the Licensor may terminate (or cause termination of) access to the Licensed Materials by Licensee and Authorized Users shall be terminated.

7. Archives

Archival Availability. Except for termination for cause, Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that the Licensee printed during Agreement's duration. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement.

8. Warranties & Indemnification

8.1 Warranties. The Licensor warrants the following:

- a. Licensor has all necessary legal and equitable rights, permissions, or clearances to license the Licensed Materials to the Licensee for the purposes outlined in this Agreement, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party;
- b. Licensor, Licensee, and any Authorized Users shall indemnify and hold harmless each other for any losses, claims, damages, awards, penalties, or injuries they incur (including reasonable attorney's fees) which arise from any third party claim that alleges contract breach, copyright infringement, or other intellectual property infringement arising from the furnishing, use, or access of the Licensed Materials. Additionally, Licensor, Licensee, and any Authorized Users agree that no liability limitation that may appear elsewhere in this Agreement applies to, overrides, or cancels this indemnification.

8.2 Indemnification.

Both Licensor and Licensee agree to indemnify and hold harmless the other party for any losses, claims, damages, awards, penalties, or injuries incurred by any third party (including reasonable attorney's fees) that arise from any alleged breach of the indemnifying party's representations and warranties made under this Agreement, so long as the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request. Licensee agrees to indemnify, defend and hold harmless AdData's agents, licensors, suppliers, and any third party information providers to the Website(s) from and against all claims, losses, expenses, damages and costs, including attorneys' fees, arising from, relating to, or connected with any alleged violation of these Terms of Use by Licensee. This indemnity shall survive the termination of this Agreement.

8.3 Warranty Disclaimers. Notwithstanding anything else in this Agreement,

- a. Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages, including loss of data, business interruption, or loss of profits that arises from the use of the Licensed Materials, or inability to use the Licensed Materials.
- b. Licensor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any Licensed Materials, including errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.
- c. Except for the express warranties stated elsewhere in this Agreement, the Licensed Materials are provided on an "as is" basis, and Licensor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof,

including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. Licensor makes no warranties respecting any harm that may be caused by the transmission of a computer virus, worm, time bomb, logic bomb or other such computer program. Licensor further expressly disclaims any warranty or representation to Authorized Users, or to any third party.

9. Miscellaneous Provisions

9.1 Assignment and Transfer. Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party. Neither party to this Agreement may unreasonably withhold or delay such written consent.

9.2 Governing Law. This Agreement shall be interpreted and construed according to, and governed by, the laws of New York, excluding any such laws that might direct the application of another jurisdiction's laws. The federal or state courts located in New York shall have jurisdiction to hear any dispute under this Agreement.

9.3 Dispute Resolution. In the event any dispute or controversy arises out of or relates to this Agreement, the parties agree to exercise their best efforts to resolve the dispute as soon as possible. The parties shall, without delay, continue to perform their respective obligations under this Agreement that are not affected by the dispute.

9.4 Force Majeure. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control, including Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

9.5 Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

9.6 Amendment. No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of Licensor and Licensee.

9.7 Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

9.8 Waiver of Contractual Right. Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

9.9 Notices. All notices given pursuant to this Agreement shall be in writing and shall be sent to the contract addresses noted in the first paragraph of this Agreement. All notices may be hand delivered, or shall be deemed received within 1 week after mailing if sent by registered or certified mail, return receipt requested, or by email. If any notice is sent by facsimile, confirmation copies must be sent by mail or hand delivery to the specified address. Either party may from time to time change its Notice Address by written notice to the other party.

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ADVERTISING DATABASE REFERENCE™ EDITION AGREEMENT
STANDARD TERMS AND CONDITIONS

TERMS OF LICENSE AGREEMENT ACCEPTED____ TERMS OF LICENSE AGREEMENT NOT ACCEPTED____

Name and Title of Licensor

Name and Title of Licensee

Date

Date

*****END OF ADVERTISING DATABASE REFERENCE EDITION™ STANDARD TERMS AND CONDITIONS*****