

Updated: May 1, 2018

**Terms and Conditions
for excelerate digital's Services**

THESE TERMS AND CONDITIONS (THIS "**AGREEMENT**") GOVERN ANY CONTRACT, ORDER FORM OR INSERTION ORDER PLACED WITH EXCELERATE DIGITAL (THE "**COMPANY**") THAT REFERENCES THIS AGREEMENT.

THIS AGREEMENT IS LEGALLY BINDING AND FULLY ENFORCEABLE. BY EXECUTING A COMPANY-APPROVED CONTRACT OR INSERTION ORDER REFERENCING THIS AGREEMENT (A "**CONTRACT**"), YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

THE AGREEMENT WILL BE EFFECTIVE ON THE DATE THAT THE CONTRACT IS FULLY EXECUTED BY YOU AND COMPANY.

1. Agreement

These excelerate Terms and Conditions (this "Agreement") sets forth the terms and conditions applicable to any order for marketing services or advertising placed with excelerate digital (the "Company") by or on behalf of the advertiser ("Advertiser") identified on a Company-approved form of contract or insertion order ("Contract"). If the Advertiser is acting through an agency identified on such Contract ("Agency"), then said Agency represents and warrants that it is authorized to enter into and bind the Advertiser to the Contract and this Agreement, including without limitation, the licenses, representations, warranties, indemnities and covenants hereunder. This Agreement is not binding until the Contract has been accepted in writing by both the Company and the Advertiser or the Agency acting on behalf of the Advertiser. The party (whether Advertiser or Agency) executing the Contract, and by reference accepting the terms of this Agreement, shall be sometimes referred to herein as the "Contracting Party."

2. License

The Advertiser grants the Company a non-exclusive, royalty-free, worldwide license in connection with this Agreement to: (i) use, copy, adapt, reformat, recompile, manipulate, distribute, transmit, and/or modify any part of the Advertiser's advertising materials ("Advertisement(s)") for public performance, public display, and distribution, (ii) access, index, cache, and display the website(s) to which the Advertisements link, or any portion thereof, by any means, including web spiders and/or crawlers, (iii) create and display copies of any text, images, graphics, audio, or video on the websites to which the Advertisements link or elsewhere, and (iv) distribute the Advertisements through the websites, properties, applications and/or devices described in this Agreement (the "Distribution Network"). The Advertiser agrees that the Company shall have no liability for the Advertisements. The Advertiser must provide all Advertisements to the Company for review before any such Advertisement is published to the Distribution Network and all Advertisements must conform to the specifications and formats required by the Company for publication to the Distribution Network. The Company may refuse, reject, cancel, or remove any Advertisement or space reservation in its sole discretion at any time. In addition, Company may edit or truncate ads to enable display on third-party networks, provided that Company shall seek Advertiser's permission to do for any other purpose. Advertisements may be subject to inventory availability, and the final decision as to relevancy of the Advertisement to the Distribution Network is at the Company's sole discretion. The Company does not guarantee that any Advertisement will be placed in, or available through, any part of the Distribution Network, nor does the Company guarantee that any Advertisement will appear in a particular position or rank.

3. Contracts; Change Order

Advertisements can only be placed through a Company-approved form Contract. Any additional or conflicting terms included into any purchase order, insertion order, or other written confirmation which is

provided to Company by Advertiser or Agency are hereby rejected and shall not alter the terms and conditions of this Agreement. All Contracts are firm and non-cancelable except as provided herein. Contracts are not valid until fully executed by both Company and the Contracting Party.

Any updates or changes to be made to the Contract not covered by this Agreement require that a new, revised Contract or insertion order be executed by both parties.

Any Contract will automatically renew on the same terms and for same period as the initial Contract, unless either party given written notice of termination in accordance with Section 16 below.

4. Rates and Rate Changes

If executed by the Agency, the Agency will pay the rates and charges set forth in the Company's standard rate card, unless otherwise specified in the Contract, provided that the Company may collect any amounts due hereunder directly from Advertiser if Agency fails to pay the same. If executed solely by the Advertiser without an Agency, then Advertiser will pay the rates and charges set forth in the Company's standard rate card, unless otherwise specified in the Contract.

All rates are subject to change and any changes shall be made in writing and become effective on either (a) the date set forth on the new rate card or (b) forty-five (45) days after new rates are established, whichever is later. The Contracting Party may terminate this Agreement on the date the new rates become effective, provided that the Contracting Party gives the Company written notice of its intent to terminate the Agreement at least seven (7) days prior to the effective date of the rate change. If the Agreement is not terminated by said time frame, then the Contracting Party is deemed to have accepted the rate change.

5. Invoicing and Payment

The Contracting Party will be invoiced monthly based upon the Contract and all payments are due net thirty (30) days from the invoice date. An account not paid in full on or before the due date will be deemed past due. Past due balances on any invoice will accrue interest at the rate of one and half percent (1.5%) per month or the maximum amount allowed by law, whichever is lower.

The Contracting Party warrants that the information provided on the Contract is accurate and reflects the terms for invoicing. Any additional information that may be required for invoicing and payment, including but not limited to a purchase order, will be provided to the Company in writing at the time of execution of the Contract. The Company shall have the right to suspend any Contract immediately upon written notice to the Contracting Party (email to be accepted) for any reason, including without limitation, for non-payment of any invoice by its due date or for failure by Agency or Advertiser to perform any other obligation specified in this Agreement. This is in addition to Company's rights of termination as specified in Section 16 below.

6. Warranties and Representations

6.1 The Advertiser warrants and represents that any Advertisement submitted to the Company is original, does not violate any law nor infringe the copyrights, trademarks, tradename, trade secrets or patents of any other person, entity, or corporation, and contains no matter which is false or misleading, libelous, obscene, abusive, violent, bigoted, or hate-oriented, or which constitutes an invasion of privacy, an unlawful appropriation of the name or likeness or violation of any right or publicity, or is otherwise injurious to rights of any other person.

6.2 The Advertiser warrants and represents that it is duly licensed and authorized to sell the products and services identified in the Advertisement and has obtained all necessary consents for the Advertisement prior to the submission to the Company and that this Agreement does not conflict with any other agreement or obligation to which the Advertiser is bound.

6.3 The Advertiser warrants and represents that, for the duration of this Agreement, any Advertiser-controlled website linked to an Advertisement via hyperlink will contain a conspicuously posted privacy policy that (A) complies with all applicable privacy laws, rules and regulations and (B) clearly and

accurately discloses: (i) that the website may contain third-party cookies, web beacons, and other technologies used to collect information from site visitors; (ii) the types of information that may be collected through the site, including data collected directly from the user (such as name, age and email address) and data collected automatically through the site (such as device information, network information and browser data); and (iii) how the data that is collected may be used (such as to provide information about goods or services or to personalize and improve a user's website experience).

6.4 Advertiser warrants that its digital Advertisements, including all supporting code, are free from malicious code, including but not limited to, malware, trojan horses, time bombs and viruses. Advertiser further warrants that it will not load any computer program onto an individual's computer or mobile device in connection with the Advertisements, including without limitation programs commonly referred to as adware or spyware but excluding cookies to the extent disclosed in Advertiser's privacy policy.

6.5 The Advertiser and Agency (if applicable) each represent and warrant that they will comply with all applicable laws, rules and regulations, including without limitation, the Telephone Consumer Protection Act, the Telemarketing Sales Rules and the CAN SPAM Act of 2003, and any implementing regulations thereunder, as well as all other state, federal and international privacy laws (collectively "Privacy Laws"), relating to any advertising campaigns placed through an Contract. The Advertiser and Agency will provide to the Company all opt-out, do-not-call or do-not-contact lists sufficient for the Company to comply with Privacy Laws in its performance of the Contract.

7. Indemnification

The Advertiser agrees to indemnify, defend, and hold harmless the Company, any other entities that own or operate any of the Distribution Network, and the subsidiaries and affiliates of each of the foregoing, and their respective directors, officers, employees, agents, third-party service providers, and third-parties distributing the Advertisements via the Distribution Network (collectively, the "Indemnified Parties") from any and all claims, losses, lawsuits or liabilities, whether actual or alleged (collectively, "Claims"), that arise out of or in connection with (i) any Advertisement or any website(s) or material(s) that can be linked to through an Advertisement or any promotions or offers made in the Advertisement; (ii) any products or services advertised or promoted through the Advertisement; or (iii) the Advertiser's or Agency's breach of this Agreement or any representations or warranties hereunder. Advertiser's indemnification obligations shall not apply to the extent that Claims are the result of gross negligence or willful misconduct on the part of Company. The Advertiser agrees to be solely responsible for defending any Claim against an Indemnified Party (subject to such Indemnified Party's right to participate with counsel of its own choosing and at its own expense), and for payment of any and all judgments, settlements, damages, losses, liabilities, costs, and expenses, including reasonable attorneys' fees, resulting from all Claims against an Indemnified Party, provided that the Advertiser will not agree to any settlement that imposes any obligation or liability on an Indemnified Party without the Indemnified Party's prior express written consent. This provision shall not apply where prohibited by state law.

8. Delivery

The time for a campaign to start delivery may vary from time to time based upon the multiple platforms used for delivery and may be specified in the Contract. The Company will make commercially reasonable business efforts to deliver to the terms in the Contract. The term of the campaign delivery term will automatically be extended by any term of delay in starting delivery. If the Company fails to deliver the aggregate number of Advertisements as agreed to in the Contract by the end of the period specified in the Contract, in spite of Company's reasonable business efforts to do so, then the Agency's and Advertiser's sole and exclusive remedy is the limited to the following, which the Company may choose in its discretion: (i) a refund of the charges representing the Advertisements that were undelivered, (ii) placement of the Advertisements at a later time in a comparable position as determined by the Company, and/or (iii) an extension of the term of this Agreement with a refund representing any remaining undelivered Advertisements at the end of such extended term.

Any campaign start delivery that is delayed due to the Agency or Advertiser's failure to provide the Advertisement in accordance with the Contract or this Agreement will not be deemed to be delayed, and the Advertiser or Agency will not be entitled to any of the remedies in the prior paragraph. Nonetheless,

the start date will be adjusted by the Company based upon the timing of delivery of the Advertisement to ensure that the term of campaign delivery in totality is complete.

The Company may allocate funding under the Contract in a different manner than as initially determined to the existing platforms included on the Contract in order to drive campaign success and relevancy, provided that the addition of any new platforms to a campaign will require written approval by the Advertiser or Agency.

9. Cancellation of a campaign or Advertisement

Any cancellation, change of date on which any Advertisement is to be published, and/or correction requested by the Contracting Party, must meet Company's applicable deadlines. In the event an Advertisement is not furnished to the Company by the Advertiser or Agency in accordance with the Company's deadline, the Company may, at its option, publish on behalf of the Advertiser the last Advertisement provided by Advertiser or Agency. Company shall not be liable if it is unable to complete its obligations under a Contract due to the failure of Advertiser or Agency to provide the specified Advertisement or advertising materials.

10. Errors

In the event of an error in publishing an electronic or printed Advertisement caused by the Company, the Company's liability for such error shall not exceed the fees incurred by the Company for the Advertisement. Claims for errors must be submitted by the Advertiser or Agency in writing within ten (10) days following the date on which the Advertisement is first published. Credit, if allowed, will be given in the form of re-publishing of the correct Advertisement. No adjustment will be made where the Advertiser or Agency is responsible for the error.

11. Use of Marks

Company and Advertiser shall each retain all rights (including all intellectual property rights), titles and interests in and to their respective tradenames and trademarks, and neither party shall act, nor fail to act, in a manner inconsistent with such ownership.

Notwithstanding the foregoing, Advertiser agrees that Company may identify Advertiser as a customer of Company and may briefly describe Advertiser's business on Company's website(s) and in other Company marketing materials. Advertiser hereby grants Company a non-exclusive, royalty-free, non-transferable, worldwide, perpetual license to use Advertiser's name, trade names and trademarks exclusively for these purposes.

Advertiser further agrees that Company may publish anonymized case studies about its working relationship with Advertiser. Such anonymized case study will not identify the Advertiser by tradename or trademark, but may include a general description of the Advertiser's business and/or industry, a description of the services provided to Advertiser by Company, and the results of such services (including but not limited to aggregated marketing analytics data generated through the services). If the Company wishes to identify Advertiser by tradename or trademark in a case study, Advertiser shall have the right to review and approve any such case study prior to its publication.

12. Third-Party Provisions

If any of the advertising described in this Agreement is to be published on any third-party network or social media site ("Third-Party Networks"), then both Agency and Advertiser represent and warrant that they will comply will comply with all terms and conditions relating to placement of Advertisements through said Third-Party Networks. Without limiting the foregoing, Agency and Advertiser represent and warrant that each does not and will not directly or indirectly place, install, interface with or otherwise introduce any code or software into Third-Party Network Software other than as needed to serve Advertisements or execute any functionality within such an Advertisement pursuant to this Agreement. The term "Third-Party Network Software" as used in this paragraph means any software used to access the services available on a Third-Party Network (the "Third-Party Service") including without limitation any software used to display content on or serve Advertisements to the Third-Party Network Service, and any software accessed by an end user of the Third-Party Network when accessing the Third-Party

Services, including Web browsers, operating systems and other general-purpose software, to the extent used in connection with the Third-Party Network Service. Agency and Advertiser shall not collect any data, code or information from or relating to Third-Party Network Software, including without limitation, personally identifiable information, registration data and device data of Third-Party Network end users. Notwithstanding the foregoing, Company may collect, and may provide to Agency or Advertiser, data about an end user's exposure to or interaction with an Advertisement and/or other data that is necessary to the performance of its obligations under the Contract and this Agreement, including but not limited to that end user's session-based browsing behavior, number of impressions, and http header information. To the extent that Company's services includes the placement of third-party code on the Advertiser's website, such as conversion tracking and audience retargeting code ("Third-Party Code"), , Company disclaims all liability for such Third-Party Code. Advertiser will be solely responsible for disabling or removing any Third-Party Code at the termination of the campaign. To the extent that Agency or Advertiser provides Company with Advertiser's account information, including login credentials, for a Third-Party Network or other platform ("Advertiser Account") in order to enable the distribution or monitoring of an ad campaign, Company shall (i) use commercially reasonable efforts to prevent the unauthorized use or disclosure of such account information; and (ii) use such account information solely for the provision of the services. Advertiser shall remain liable for its own actions taken under any Advertiser Account and for any actions taken by Company under any Advertiser Account in accordance with Advertiser's express instructions. Advertiser may disable Company's access to an Advertiser Account at any time, but understands and agrees that, where Company requires such access in order to provide the contracted services, denial of access shall relieve Company of any liability for non-performance. At the end of the Contract, Advertiser is solely responsible for changing or updating the account information for its Advertiser Accounts.

13. Limited Liability

EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS IN SECTION 7, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, ANY LIABILITY OF EITHER PARTY IN CONNECTION WITH THIS AGREEMENT, UNDER ANY CAUSE OF ACTION OR THEORY, SHALL BE STRICTLY LIMITED TO THE AMOUNT ALREADY PAID BY THE CONTRACTING PARTY TO THE COMPANY PURSUANT TO THIS AGREEMENT IN THE SIX-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT. FOR THE AVOIDANCE OF DOUBT, NOTHING IN THE PRECEDING SENTENCE IS INTENDED TO LIMIT A PARTY'S INDEMNIFICATION OBLIGATIONS BASED UPON THE NATURE OF THE DAMAGES CLAIMED BY A THIRD-PARTY. THE AGENCY AND ADVERTISER AGREE THAT THEY WILL NOT HOLD THE COMPANY RESPONSIBLE FOR THE SELECTION OR RETENTION OF, OR ANY ACTS, ERRORS, OR OMISSIONS BY, ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITH RESPECT TO CLICKS AND/OR IMPRESSIONS BY ANY THIRD PARTY ON THE ADVERTISEMENTS, REGARDLESS OF THE INTENT OF SUCH THIRD PARTY.

14. Force Majeure

The Company shall have no liability whatsoever in the event any act of God, the public enemy or government authority, labor dispute, war (whether declared or not), civil disobedience, riot or other occurrences beyond control shall in any way restrict or prevent the publishing of the Advertisement (a "Force Majeure Event").

15. No Guarantees

The Company does not guarantee any given level of audience, click-throughs, impressions, views or other performance measure unless specifically stated in the Contract.

16. Termination

a. Either Party may terminate this Agreement, for any reason and without penalty, upon 30 days' written notice to the other Party ("Termination for Convenience"). In the event of a Termination for Convenience,

the Contracting Party shall pay the Company all outstanding fees for services performed prior to termination according to the Contract rate(s), and Company shall provide a pro-rata refund of any fees paid in advance for services not-yet rendered subject to section 14 above.

b. Company may immediately terminate this Agreement without penalty if Company reasonably believes that Advertiser or Agency has breached any material provision of this Agreement, including the warranties and representations provided in Section 6 above ("Termination for Cause"). In the event of a Termination for Cause, the Contracting Party shall be liable for the entirety of the contracted fees.

c. In the event the Contracting Party fails to pay any amount due for advertising and the Company finds it necessary to refer the Contracting Party's account to any attorney for collection, these attorney's fees and any court costs associated with the costs of collection will be added to the outstanding balance due to the Company.

17. Multiple Agencies

Two or more agencies will not be allowed to combine Agreements or Contracts, nor will advertising agencies be allowed to combine Agreements or Contracts of their clients or accounts, unless the businesses advertised are under common ownership and prior approval of the Company has been obtained.

18. General Terms

a. The Contracting Party agrees that no representations of any kind have been made to the Contracting Party by the Company or by any of its agents and that no understanding has been made or agreement entered into other than as set forth in the applicable Contract, subject to these terms and conditions of this Agreement.

b. This Agreement together with the applicable Contracts accepted by the Company constitutes the entire agreement of the parties with respect to its subject matter and supersedes any prior written or oral agreement. Any additional terms and conditions submitted by the Contracting Party and/or the Contracting Party's forms of copy instruction are not binding on the Company.

c. The Contracting Party may not assign the Agreement to another party, person or entity, by merger, operation of law or otherwise, without the written consent of the Company. The financial obligation under the Agreement will remain with the Contracting Party unless explicitly agreed to in writing with the Company. Any attempt to transfer or assign this Agreement or the rights and obligations herein by the Contracting Party without the Company's prior written consent shall be null and void.

d. It is agreed that the exclusive venue in any legal action arising under this Agreement or that may be taken to enforce this Agreement or any Contract shall be a court of competent jurisdiction in the County of Sacramento, California. This Agreement shall be governed by the laws of the state of California, without regard to its choice of law principles.

e. Sections 4, 5, 6, 7, and 11 through 18, and an claims for amounts due to the Company shall survive any termination or expiration of this Agreement or any Contract.

18. The obligations of the Advertiser and Agency hereunder shall be joint and several.

19. The Company is a division of McClatchy Shared Services Inc., a Florida corporation.