

STANDARD TERMS AND CONDITIONS

The following terms and conditions will apply:

1. Agreement and Effective Date. These terms and conditions, together with the Order Form or Master Services Agreement (collectively "Order Form") signed by Customer, constitute a binding agreement between the parties ("Agreement"), which is effective on the date signed by the Customer on the Order Form.
2. Advertising Quality. All advertising is subject to the current standards, practices and business procedures of TiVo. TiVo, in its sole discretion, reserves the right to limit or withhold any advertising which it, at any time, deems unsuitable or in violation of its standards, practices, and procedures, or if the subject matter or presentation is considered by TiVo to be offensive, defamatory, unsuitable for viewing by all ages, or otherwise inappropriate or inconsistent with TiVo's philosophy. All advertising will conform to TiVo's technical requirements and must be approved by TiVo prior to inclusion in the TiVo service.
3. Customer Content. With respect to any and all content provided to TiVo by Customer for use in connection with the Agreement, including but not limited to the Customer logo, name, slogan, promotions or contests, and content of the Asset (the "Customer Content"), Customer hereby grants to TiVo a non-exclusive, royalty-free license to display the Customer Content on the TiVo service as contemplated in the Agreement.
4. Joint Representations. Each party to this Agreement represents and warrants to the other party that: (a) such party has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; and (b) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.
5. Customer Representations. In addition, Customer represents and warrants to TiVo that:
 - 5.1.1. If the agreement is signed by an agency on behalf of Customer, that agency has authority to bind the Customer.
 - 5.1.2. Customer owns the Customer Content or has obtained all necessary licenses, permissions and consents required to license the Customer Content to TiVo for the purposes of reproducing, modifying, distributing and displaying the Customer Content as contemplated by the Agreement, including without limitation, privacy releases, publicity releases, musical composition licenses, sync licenses, compulsory licenses, artist consents and sound recording licenses.
 - 5.1.3. Customer's promotions will comply with all national, state and local regulations including but not limited to registration of sweepstakes if total prize is over \$5,000.
 - 5.1.4. The reproduction, modification, distribution and display of the Customer Content as contemplated by this Agreement does not and will not be defamatory, unlawful or otherwise violate, infringe or dilute the rights of any third parties in the Customer Content including but not limited to copyrights, trademarks, and rights of publicity or privacy.
 - 5.1.5. TiVo will not be responsible for any fees that are payable or become payable as a result of the copying, distribution or display of the Customer Content as contemplated by the Agreement, including without limitation fees: (i) for any sound or video recording embodied in the Customer Content; (ii) for any composition or underlying works embodied in any Customer Content; (iii) for any sync license, mechanical license or compulsory license; (iv) to any third party pursuant to a union contract or collective bargaining agreement (including, without limitation, SAG, AFTRA or the Writer's Guild); and (iv) to any actor, writer, creator, composer, artist or artist affiliated entity.
 - 5.1.6. The Customer Content, which will be reviewed and approved by Customer, will be truthful, accurate and will not make any false or misleading representations or characterizations about any product, service, or specifications described or contained within the Customer Content.
 - 5.1.7. Customer will promptly perform its obligations in connection with any promotion, contest, or rebate offer.
 - 5.1.8. Customer will comply with all applicable laws and regulations concerning advertising, promotion, and privacy in connection with any sweepstakes, promotion, contest or rebate offered through the TiVo service. As between TiVo and Customer, Customer will be solely responsible for ensuring compliance with all applicable laws and regulations concerning contests and sweepstakes offered as part of Customer Content.
6. Indemnification by Customer. To the extent any of the representations and warranties made by Customer herein are not true, Customer will indemnify and hold TiVo harmless from any third party claims, costs or expenses (including attorneys' fees) arising, directly or indirectly, from or related to (i) the breach of the representations and warranties or (ii) any other matter relating to the use of all or part of the Customer Content by TiVo. In the event of a third party claim that any Customer Content on the TiVo

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service infringes upon or otherwise conflicts with any rights of that third party, among other remedies, TiVo will have the right to remove such Customer Content or modify it and/or its placement so that it is non-infringing. This provision will survive termination of this Agreement.

7. Disclosure. TiVo may disclose or provide a copy of this Agreement to its hardware manufacturers and members of its distribution channels as necessary.
8. Delivery. Customer will deliver all Customer Content to TiVo no later than the delivery date specified in the Agreement. **Time is of the essence.**
9. Proprietary Reporting Methodology. Interactive Advertising Reports are prepared using data that reflects navigation of the advertising elements of the TiVo User Interface, playback of specific video material, and response to interactive commercials encoded with TiVo data. Each of these data items creates an entry into the TiVo viewing logs.

On a nightly basis, TiVo collects data from a random, anonymous sample of roughly 375,000 active boxes across the United States market. Each night, a new random sample is selected from the active boxes. The sample is representative of the proportion of subscriptions in the TiVo subscription base that utilize each of the available TiVo platforms. Across all reports, data is presented as a percentage of the subscriber base or a projection based on the reporting sample. Pulling a sample size of 375,000 boxes results in a 95% confidence interval within 5% margin of error for all campaigns with viewership greater than 10,000 selections per day (70,000 selections for a weeklong campaign).

For each campaign, TiVo will calculate the gross number of subscribers to whom an entry point is displayed, who enter a Showcase or who watch a video. The specific metric upon which pricing will be based is detailed in the applicable Order Form or Insertion Order.

10. Measured Metrics.
 - 10.1. Impressions. "Impressions" shall mean the gross number of instances in which an entry-point (Gold Star on TiVo Central, Pause Menu, Discovery Bar, Showcase Grid Menu, Interactive Tag, Program Placement-Delete or Program Placement-Now Playing Group) is visible on the television screen, projected to the TiVo subscriber base.
 - 10.2. Click-Thrus. "Click-Thrus" shall mean the total gross number of selections into an entry-point (Gold Star on TiVo Central, Pause Menu, Discovery Bar, Showcase Grid Menu, Interactive Tag, Program Placement-Delete or Program Placement-Now Playing Group), projected to the TiVo subscriber base.

11. Bonus Inventory. In its sole discretion, TiVo may provide bonus advertising inventory in order to drive traffic and improve the performance of the campaign. Customer will not be charged by TiVo for any additional impressions or views above any cap set forth in the Agreement.
12. Payments. Customer will pay TiVo for services in accordance with the Agreement. All payments and other sums of money due hereunder will be paid in United States Dollars to: TiVo Inc. 2160 Gold Street, Alviso, CA 95002, Attn: Accounts Payable.
13. Make Goods. If TiVo is unable to deliver an advertising service, the nondelivery will not be considered a breach of this Agreement. If the nondelivery is due to fault by TiVo, TiVo will provide Customer with a "make good" that has a value approximately equal to the value of the undelivered service. Such "make good" will be Customer's sole and exclusive remedy for TiVo's nondelivery of the advertising service pursuant to this Agreement.
14. Limitation of Liability. IN NO EVENT WILL EITHER PARTY'S LIABILITY UNDER THE AGREEMENT INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF SUCH PARTY WILL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POSTENTIAL LOSSES OR DAMAGES. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR DAMAGES IN EXCESS OF THE AGGREGATE SUM PAID TO TIVO BY CUSTOMER UNDER THE AGREEMENT.
15. Termination. Either party will have the right to terminate this agreement in the event that the other party is in default or in breach of any material provision of this agreement and fails to cure such default or breach within thirty (30) days of receiving notice of such breach.
 - 15.1. Upon expiration or termination of this Agreement,
 - (a) Customer will pay TiVo any amounts owed to TiVo for serviced rendered under this Agreement;
 - (b) all rights granted to Customer hereunder will terminate and Customer's rights to use TiVo's Confidential Information under this Agreement will immediately cease;
 - (c) Customer will promptly return to TiVo all copies in its possession or control of TiVo's Confidential Information;
 - (d) TiVo will promptly return to Customer all Production Elements or Customer Content and any copies thereof in its possession or control; and
 - (e) Sections 2 through 7 of this Exhibit will survive any expiration or termination of this Agreement.
16. Force Majeure. Neither party will be deemed in breach of the Agreement to the extent that performance of its obligations are delayed or prevented by reason of any fire, flood, terrorist attack, war, strikes, boycotts, acts of God, or other causes that are beyond the control and without the

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fault or negligence of the entity unable to perform ("Force Majeure Event") provided that such Party gives the other party written notice thereof promptly and uses its commercially reasonable efforts to cure any such breach. The failure of a supplier or subcontractor will not constitute a Force Majeure event. Notwithstanding the foregoing, however, Customer acknowledges and understands that TiVo's service delivery mechanism is dependent upon a number of technical and distribution variables that are out of TiVo's control and, consequently, the Asset may not be received by 100% of TiVo DVRs to which it is delivered. Some examples, but not limited to: 1) Customer phone line not connected 2) National broadcast not received 3) A recording was in progress at the time of broadcast.

17. Ownership. As between TiVo and Customer, all right, title and interest in the Customer Content will remain the property of Customer, and nothing in this Agreement will confer on TiVo any right of ownership in the Customer Content. TiVo agrees that it will only use the Customer Content as contemplated by this Agreement, and will not use the Customer Content for any other purpose. As between TiVo and Customer, all right, title and interest in the documents and specifications provided by TiVo ("TiVo Specifications") to Customer will remain the property of TiVo, and nothing in this Agreement will confer on Customer any right of ownership in the TiVo Specifications. Customer agrees that it will only use the TiVo Specifications as contemplated by this Agreement and will not use the TiVo Specifications for any other purpose. Neither party grants the other party any express or implied licenses under any patents, copyrights, trade secrets, trademarks, or other intellectual property rights, except to the extent necessary for each party to fulfill its obligations to the other under this Agreement.

18. Confidential Information. The terms and conditions of this Agreement are to be held in strict confidence by the parties hereto. During the term of this Agreement, TiVo and Customer may receive Confidential Information (as hereinafter defined) belonging to the other party (the "disclosing party") and will not use such Confidential Information except as set forth in this Agreement. Each receiving party will disclose Confidential Information of the disclosing party only to its directors, officers, employees, and representatives who are required to have such information for the receiving party to carry out the transactions contemplated by this Agreement and who have been advised of the obligations set forth in this Section. The receiving party may also disclose any Confidential Information that must be disclosed pursuant to applicable federal, state, or local law, court order or other legal process; provided that the receiving party gives the disclosing party prompt written notice sufficient to allow the disclosing party to seek a protective order or other appropriate remedy. The receiving party will promptly notify the disclosing party of any actual or suspected misuse or unauthorized disclosure of the disclosing party's Confidential Information. For purposes of this Agreement, "Confidential Information" of a disclosing party will mean any non-public or proprietary

information of such party, including, without limitation, subscriber information, technical data, trade secrets, plans for products or services, software, or reporting, financial documents or data in whatever form or medium, or the terms and conditions of this Agreement. "Confidential Information" will not include any information that: (i) is in the public domain through no act or omission of the receiving party; (ii) was in the receiving parties lawful possession without limitation on disclosure, as demonstrated by the files in existence at the time of disclosure; (iii) becomes known to the receiving party from a source other than the disclosing party, which disclosure is not in violation of the disclosing party's rights; or (iv) was independently developed by the receiving party without any use of the Confidential Information, as demonstrated by files created as of the time of such independent development. The obligations of the parties under this Section will survive termination of the Agreement and will continue in full force and effect for two (2) years from the end of the Agreement.

19. No Relationship. Nothing set forth in these terms and conditions, and nothing in the Agreement related to these terms and conditions will create or be deemed to create a partnership, joint venture, or agency relationship between Customer and TiVo.

20. Waiver. The failure of a party to require performance by the other party of any provision of this agreement will not affect the full right to require such performance at any time thereafter; nor will the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

21. Notices. Notices to Customer and TiVo hereunder will be given by personal delivery, US mail, or overnight courier to Customer at its address and to TiVo at 2160 Gold Street, Alviso, CA 95002, Attn: General Counsel.

22. Miscellaneous. The parties agree that these terms and conditions, together with the signed Order Form constitute a binding agreement between the parties, contains the entire understanding of the parties with respect to the transactions and matters contemplated hereby, and supersedes all previous agreements among the parties concerning the subject matter. The Agreement cannot be amended except by a writing signed by the party to be charged. The Agreement will be construed in accordance with the laws of the state of California. All claims arising out of this Agreement will be brought in the federal or state courts in Santa Clara County, California. Neither party will assign the Agreement or any rights hereunder without the prior written consent of the other party. The invalidity or unenforceability of any provision set forth herein will in no way affect the validity or enforceability of any other provision.