

## **BUYER BOOKING TERMS (MOBILE ADVERTISING) 3 November 2010**

### **1 Application of Buyer Booking Terms**

1.1 From time to time, the Buyer may place a Buyer Booking with Big Mobile by completing the electronic Campaign Form and agreeing to be bound by these Buyer Booking Terms in the manner required.

1.2 These Buyer Booking Terms apply to the Buyer Booking and Campaign Form made by the Buyer during the Term.

### **2 Insertion and Display of Advertising Content**

2.1 In consideration for the Buyer paying Big Mobile the Buyer Booking Charges, Big Mobile will insert the Advertising Content into the relevant Available Advertising Space and Display the Advertising Content in accordance with the Campaign Form and the terms of this Agreement.

2.2 Unless Big Mobile expressly agrees in writing, the positioning or placement of Advertising Content is at the discretion of Big Mobile and the relevant Third Party Publisher's right to refuse to place Advertising Content for any reason whatsoever, including but not only, due to inventory availability. Big Mobile cannot guarantee Advertising Content will appear in a particular position or rank and the positioning or placement of the Advertising Content can be varied and/or optimized at any point during the Advertising Campaign at the discretion of Big Mobile unless expressly agreed by Big Mobile in writing. Big Mobile may place the word "advertisement" above and/or below any Advertising Content that if Big Mobile's determines it to be necessary to distinguish it from editorial matter.

2.3 The Buyer acknowledges and agrees that:

- (a) Big Mobile does not filter internet content accessed by mobile consumers during browsing sessions;
- (b) where the Buyer's Advertising Content comprises banners or any other advertising products, as detailed in the latest release of the Big Brochure, which is placed at the top or the bottom of the subscriber's screen, such banners or products may be positioned adjacent to any mobile internet sites or mobile internet content the subscriber is browsing; and
- (c) Big Mobile does not accept and will not be responsible for any loss or damage (to the Buyer's brand or reputation or otherwise) caused by the appearance of the Buyer's advertisement adjacent to any third party or other Big Mobile advertising or any internet material including that which the Buyer may regard as inappropriate, offensive or otherwise not in alignment with its own business objectives or principles.

2.4 If, during the Term of this Agreement or any time thereafter, a party receives a Notification in respect of the Advertising Campaign, Advertising Content or in respect of the Services, it must notify the other party in writing within 2 Business Days of receiving such Notification. The Buyer acknowledges and agrees that: where a Notification requires a response or action from Big Mobile, Big Mobile may, without any liability to Buyer, take any steps necessary in order to respond or comply with a Notification (to the extent Big Mobile is legally authorised and obliged to do so) to ensure compliance with any relevant Regulator requirements and/or Laws, regulations or Industry Codes (as applicable) and that Big Mobile may take these steps at any time and without further notice to Client.

2.5 The Buyer further acknowledges and agrees that Big Mobile does not accept and will not be responsible for any loss or damage (to the Buyer's brand or reputation or otherwise) caused by:

- (a) the third party owner (for example a publisher or mobile carrier) of the Available Advertising Space declining or otherwise failing for any reason to Display Advertising Content in accordance with a Buyer Booking; or
- (b) Big Mobile complying with a Notification in accordance with Clause 2.4 in respect of the Advertising Campaign, Advertising Content or Services.

### **3 Production Services**

3.1 If the Buyer requests on the Campaign Form that Big Mobile produce Advertising Content for Display, then:

- (a) Big Mobile must produce the Advertising Content for Display in accordance with the requirements set out in the Campaign Form, however such Advertising Content must always be in accordance with the Big Mobile Content Standards Code; and
- (b) the Buyer must:
  - (i) pay the fees specified in the Campaign Form for Big Mobile to produce the Advertising Content for Display;
  - (ii) comply with all instructions set out on the Campaign Form; and
  - (iii) supply all relevant material required to provide the Advertising Content in the manner and in the Format, and by the date, specified by Big Mobile.

3.2 Big Mobile will not be required to publish any Advertising Content which the Buyer requests Big Mobile to produce, and Big Mobile will not be liable to the Buyer for such failure to produce the Advertising Content, if the Buyer fails to comply with this Clause 3.

3.3 If the Buyer requests an amendment to the Advertising Content after Big Mobile has produced the Advertising Content in accordance with the requirements set out in the Campaign Form, Big Mobile will charge the Buyer

additional fees at Big Mobile's then prevailing rates.

#### **4 Late booking**

If the Buyer submits the Campaign Form and the relevant Advertising Content less than 10 Business Days prior to the Start Date, Big Mobile cannot not guarantee that the Advertising Content will be Displayed from the Start Date.

#### **5 Cancellation by the Buyer**

5.1 If the Buyer cancels a Buyer Booking, the Buyer must pay the Buyer Booking Charges in full but the monies will be credited against any future campaign.

5.2 All fees must be paid as scheduled in the Insertion Order under the normal terms of payment.

#### **6 Big Mobile's rights**

6.1 Big Mobile may in its sole discretion cease to Display the Advertising Content as a result of a third party owner (for example a publisher or mobile carrier) of the Available Advertising Space declining or otherwise ceasing upon reasonable grounds to Display Advertising Content in accordance with a Buyer Booking; if necessary for Big Mobile to comply with a Notification; or if the Buyer is in breach or in the view of Big Mobile is likely to be in breach of any warranty in Clause 11. If Big Mobile ceases to Display the Advertising Content for the reasons stated in this Clause, then the Buyer must pay the Buyer Booking Charges in full.

6.2 Subject to Clause 6.1, Big Mobile may in its sole discretion cease to Display the Advertising Content for any reason, in which case Big Mobile will refund the Buyer Booking Charge to the Buyer in respect of the period that the Advertising Content was not Displayed.

6.3 Big Mobile may, in its sole discretion and without incurring any liability to the Buyer, decline to accept for Display Advertising Content:

(a) where Big Mobile reasonably considers the Advertising Content does not comply with the requirements of this Agreement (including, without limitation, Clause 7), the Mobile Advertising Guidelines or the Big Mobile Content Standards code;

(b) where Big Mobile or a Third Party Publisher considers the Advertising Content does not comply with the relevant Third Party Publisher Terms and Conditions;

(c) in order to comply with any applicable legal or regulatory requirement, Industry Code, AANA Codes of Practice or any direction or recommendation of a Regulator;

(d) in order to protect the business or reputation of Big Mobile; or

(e) on any other reasonable grounds.

6.4 If Big Mobile declines Advertising Content as set out in Clause 6.3, the Buyer may revise and resubmit the Advertising Content to Big Mobile for reconsideration.

#### **7 Advertising Content requirements**

7.1 The Buyer must ensure that the Advertising Content, including the collection and accuracy of customer details:

(a) complies with the Big Mobile Content Standards Code and Format in force from time to time;

(b) complies with all advertising standards and codes applying to the Australian advertising and media industries including without limitation the AANA Codes of Practice and the Industry Codes;

(c) does not contain any information, subject matter or content that is: illegal; contrary to any Laws; contrary to any applicable AANA Codes of Practice; contrary to any Industry Code, false, misleading or deceptive or likely to mislead or deceive; indecent, obscene, threatening, discriminatory, harassing, in breach of any confidence, defamatory, libellous, offensive or objectionable;

(d) does not contain any viruses, trojans, or other malicious code and/or other computer programming routines that may potentially damage, interfere with, intercept, or expropriate any Big Mobile or Third Party Publisher system data or information;

(e) does not use any automated means, including agents, robots, scripts, or spiders to access, monitor, scrape or copy the Big Mobile or Third Party Publisher websites, applications or systems or any data therein, except those automated means expressly made available by Big Mobile, a Third Party Supplier or authorised by Big Mobile in advance in writing (e.g., third-party tools approved by Big Mobile);

(f) will not interfere or attempt to interfere with the proper working of any website, application or system it may be hosted on;

(g) will not cause damage to computers, download a software application, change user settings, or create a series of multiple, sequential, stand-alone advertisements (including by pop-up window or pop-under window);

(h) does not contain any misrepresentations or suggest that any entity has any approval or sponsorship of another entity which it does not have;

(i) is solely for lawful business purposes;

(j) does not contain any competition, quiz or gaming content which would require Big Mobile to hold any gaming permits or licenses;

(k) does not relate to any financial matters which would require Big Mobile to hold any particular financial services licence;

(l) is either original to the Buyer or the Buyer has secured all necessary consents, rights, authorisations, clearances and licenses for its use as contemplated by this Agreement, and the Buyer is responsible for all royalties, payments, and fees incurred, including but not only, performing rights society fees; and

(m) complies with all applicable Laws, regulations and Industry Codes, and with the requirements or directions of relevant Regulators.

## 8 Fees and payment

8.1 If requested by Big Mobile, the Buyer must submit a completed credit application to determine terms of payment. If no credit application is submitted or the request for credit is denied by Big Mobile in its sole discretion, the Buyer Booking Charges must be paid in advance of the Advertising Campaign start date. Major credit cards (VISA, M/C and American Express) are accepted. If Big Mobile approves credit, Big Mobile will invoice the Buyer in the manner stated in this Clause.

8.2 The Buyer Booking Charges which apply to a Buyer Booking are the Buyer Booking Charges specified in the Big Brochure which are current as at the date of a Buyer Booking, or as otherwise varied in the Campaign Form.

8.3 Big Mobile will invoice the Buyer or electronically debit the Buyer monthly, as applicable.

8.4 If invoiced, the Buyer must pay Big Mobile within 30 days from the date of the relevant invoice (**Payment Date**). All Buyer Booking Charges not paid by the Payment Date will accrue interest at the interest rate 2 per cent over the base rate quoted by Westpac Banking Corporation in Sydney on the Payment Date.

8.5 Big Mobile may cancel and remove any Advertising Content (without the Buyer being entitled to reinstate such Advertising Content without making a new Buyer Booking) if the relevant invoice is not paid by the Payment Date.

8.6 The Buyer will be liable to pay all taxes, duties and other government charges payable or assessed in connection with this Agreement, excepting the taxes, duties and government charges assessed on the income of Big Mobile.

8.7 **GST** Words or expressions used in this Clause which are defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this Clause. Any consideration to be paid or provided for a supply made under this Agreement, unless specifically expressed to include GST, does not include an amount on account of a party's GST liabilities with respect to that supply. If a party (**GST Supplier**) makes a supply under this Agreement on which GST is imposed: the consideration payable or to be provided for that supply but for the application of this Clause (where that consideration has not been specifically expressed in this Agreement to include GST) (**GST exclusive consideration**) is increased by, and the recipient of the supply (**Recipient**) must also pay to the GST Supplier, an amount equal to the GST payable by the GST Supplier on or for that supply; and the amount by which the GST exclusive consideration is increased must be paid to the GST Supplier by the Recipient at the same time as the GST exclusive consideration is payable or to be provided.

## 9 Confidentiality and Privacy

9.1 Buyer agrees to keep the Confidential Information of Big Mobile confidential and use it only for the purposes of performing its obligations under these Conditions or as may be required by law. This Clause shall survive termination of this Agreement.

9.2 The Buyer must ensure that any collection, processing, use, disclosure and transfer of Personal Information by the Buyer or any of the Buyer's third party suppliers complies with all applicable Laws, rules and regulations in Australia, including without limitation the *Privacy Act 1988* (Cth), Part 13 of the *Telecommunications Act 1997* (Cth) and any applicable state or territory privacy legislation (or any laws amending or replacing such privacy laws).

## 10 Intellectual Property

10.1 All Intellectual Property Rights associated with the Services provided by Big Mobile vest exclusively with Big Mobile. Big Mobile will retain all rights, title and interest in and to all know-how, methodologies, processes, or technologies used in providing the Services which are based on trade secrets or proprietary information of Big Mobile or are otherwise owned or licensed by Big Mobile.

10.2 Unless otherwise agreed by Big Mobile, all Intellectual Property Rights in the Advertising Content produced by Big Mobile pursuant to Clause 3 vest exclusively with Big Mobile, provided always that all Intellectual Property Rights in any material provided by the Buyer to Big Mobile (**Buyer's Material**) remain with the Buyer.

10.3 The Buyer grants Big Mobile, and any Third Party Publisher which hosts the Buyer's Material, a perpetual, world-wide, non-exclusive, irrevocable, royalty-free, worldwide licence (including the right to sub-licence) to:

(a) use, copy, adapt, reformat, recompile, communicate by telecommunication, truncate, edit, and/or modify any part of the Buyer's Material for the purposes of this Agreement;

(b) access, index, cache, and display the website(s) to which any Advertising Content may link, or any portion thereof, by any means, including web spiders and/or crawlers;

(c) distribute Advertising Content; and

(d) use any of the Buyer's trade marks for the purposes of marketing any Big Mobile services.

## 11 Warranty

The Buyer represents, warrants and undertakes that:

(a) the Advertising Content:

(i) does not offer or promote any competition or other prize awarding arrangement, without Big Mobile's specific prior written consent;

(ii) complies with the requirements of this Agreement (including, without limitation, Clause 7), the Mobile Advertising Guidelines and the Big Mobile Content Standards code;

(iii) does not infringe the Intellectual Property Rights of any third party;

(iv) complies with all relevant Laws and regulations and that its Display will not give rise to any claims or liabilities to Big Mobile; and

(b) nothing in the Advertising Content breaches the Trade Practices Act 1974 (Cth), equivalent fair trading legislation in each state and territory, the Copyright Act 1968 (Cth), defamation, consumer protection, gaming and lotteries, and sale of goods legislation of the states and territories or infringes the rights of any person.

(c) The Buyer represents, warrants and undertakes that all Advertising Content provided to Big Mobile in the form of the Buyer's or a third parties (e.g. carriers or list providers) database or list of customers or consumers etc containing account holder and personal information (including but not limited to names, addresses, email addresses, mobile numbers, fixed line numbers) to whom emails, SMS, MMS or other forms of electronic messages will be sent using any part of or as a result of the Services:

(i) complies with the *Do Not Call Register Act 2006* (Cth);

(ii) complies with the *Spam Act 2003* (Cth), including that all the account holders consent to the receipt of commercial electronic messages from the Buyer (or the Buyer's own client), the commercial electronic message sent will clearly and accurately identify the Buyer (or the Buyer's own client) as the organisation who authorised the sending of the commercial electronic message and the commercial electronic message contains a clear and conspicuous functional unsubscribe facility and a statement that advises the recipient that the recipient may use the unsubscribe facility to send an unsubscribe message to the Buyer (or the Buyer's own client); and

(iii) complies with the *Privacy Act 1988* (Cth), Part 13 of the *Telecommunications Act 1997* (Cth), the National Privacy Principles, any applicable State or Territory privacy legislation (and any laws amending or replacing such privacy laws).

## 12 Indemnity

The Buyer indemnifies Big Mobile and any associated Third Party Publisher from and against any and all loss, damage, liability and expense (including all reasonable legal fees) suffered or incurred by reason of a breach of this Agreement, any claims, proceedings or suits based on or arising out of the publication of, or any act or omission in relation to, the Advertising Content or integration of the Advertising Content on the Available Advertising Space, including but not limited to claims related to defamation, contempt of court, rights of publicity and/or privacy, copyright infringement, trade mark infringement, infringement of any other Intellectual Property Rights, misleading or deceptive conduct, and any failure to comply with or fulfil any representations, warranties or agreements made in the relevant Advertising Content or on any WAP site represented by a URL shown or embedded in the relevant Advertising Content or any object in such Advertising Content. The Buyer also indemnifies Big Mobile against any claim or fine imposed by any Regulator arising directly or indirectly from any Advertising Campaign initiated and approved by the Buyer.

For the purposes of this Clause 12, Big Mobile contracts on its own behalf and also as trustee for the Third Party Publisher and accordingly, may take action in that capacity to recover on behalf of the Third Party Publisher.

## 13 Limitation of Liability

13.1 In no event will Big Mobile be liable for any form of loss, damage, liability or expense whatsoever including but not limited to consequential, indirect or incidental loss, or special damages, damages for loss of profits, business interruption, loss of or unauthorised access to information, and the like, even if Big Mobile has been advised of the possibility of such losses or damages.

13.2 The maximum aggregate liability of Big Mobile for all causes of action arising out of or in connection with this Agreement will be limited to the total amount paid to Big Mobile by the Buyer under this Agreement, less all taxes paid in relation to that amount.

## 14 Warranty Disclaimer

14.1 All Services are provided without warranties of any nature, and, to the extent permitted by law, Big Mobile disclaims all warranties, express or implied, including without limitation any implied warranties of merchantability and fitness for a particular purpose.

14.2 Big Mobile does not warrant:

- (a) the success or otherwise of the Advertising Campaign, any media, marketing communications channel (including the Available Advertising Space), any other marketing or advertising campaign, promotion or advertisement;
- (b) the performance, accuracy, reliability or continued availability of the Available Advertising Space, any mobile network portal or other WAP publisher it serves media to or any associated software, systems or equipment; or
- (c) that any mobile network portal or other WAP publisher it serves media to will operate error free or uninterrupted, or that any errors or interruptions will be rectified within any particular time period.

14.3 If legislation implies any warranties or conditions, or imposes obligations or liability on Big Mobile in respect of this Agreement that cannot be wholly or partly excluded, restricted or modified, then Big Mobile's liability is limited, to the extent permitted by the applicable legislation, at Big Mobile's option, to:

- (a) in the case of goods: the replacement or repair of goods, or the supply of equivalent goods, or the payment of the cost of replacing the goods or having the goods repaired or of acquiring equivalent goods; and
- (b) in the case of services: the supply of the services again or the payment of the cost of having the services supplied again.

## 15 Term and Termination

15.1 This Agreement commences on the Commencement Date and continues for the Term, unless terminated pursuant to this Agreement.

15.2 Big Mobile may suspend the Services:

- (a) where required by a Third Party Publisher, Regulator, Law or a court order;
- (b) where Big Mobile needs to address technical issues relating to the Services or the Available Advertising Space;
- (c) where Big Mobile needs to reassess the commercial viability of accepting Buyer Bookings; or
- (d) on any other reasonable grounds.

15.3 Big Mobile may terminate this Agreement at any time at Big Mobile's sole discretion by giving the Buyer not less than 15 Business Days notice in writing.

15.4 Without limiting any other rights to terminate this Agreement, Big Mobile and the Buyer may terminate this Agreement immediately by notice in writing to the other party if:

- (a) the other party is in material breach of this Agreement and the breach is not capable of being remedied; or
- (b) the other party is in material breach of this Agreement which is capable of being remedied, and such breach is not remedied within 48 hours of a written request by the other party to do so; or
- (c) an Insolvency Event occurs in relation to the other party.

15.5 Termination, completion or expiry of this Agreement for any reason does not extinguish or otherwise affect any rights of either party against the other which accrued prior to termination or out of the events causing such termination including damages or other remedies to which a party may be entitled.

15.6 The warranties and indemnities provided by the Buyer shall survive termination or expiration of this Agreement and remain in full force and effect in respect of the performance of all of the Buyer's relevant obligations.

## 16 Best Practice Obligations

16.1 The Buyer acknowledges and agrees that it will comply with the following best practice requirements where the Services provided by Big Mobile involves or is likely to involve the sending of commercial electronic messages (as defined in the *Spam Act 2003 (Cth)*):

- (a) prior to commencement of the Advertising Campaign stated on the Buyer Booking the Buyer will implement and maintain at all material times an electronic messages complaints handling policy which complies with the Australian Standard ISO 100002 - 2006 (Customer satisfaction - Guidelines for complains handling in organisations). The Buyer will provide to Big Mobile written evidence of its compliance with this obligation forthwith upon request by Big Mobile from time to time;
- (b) the Buyer shall provide to Big Mobile a written weekly report which details any complaints received by the Buyer or the Buyer's clients in respect of commercial electronic messages sent after the Commencement Date resulting from the Services provided by Big Mobile, including any response to those complaints received by the Buyer or the Buyer's clients; and
- (c) to action and implement procedures to ensure that any person who indicates a desire to unsubscribe or otherwise withdraws their consent from receiving commercial electronic messages from the Buyer (or the

Buyer's client) does not receive any further commercial electronic message from the Buyer (or the Buyer's client).

## 17 General

17.1 The Agreement sets out the entire agreement between Big Mobile and the Buyer and supersedes all prior and contemporaneous agreements, arrangements and understandings between Big Mobile and the Buyer. Any existing advertising agreements between the parties (if any) in respect of substantially the same subject matter are terminated and of no further legal effect except for any provisions in such agreements which are expressed to survive termination or expiration.

17.2 This Agreement is governed by the laws of the State of New South Wales. The Buyer consents to the non-exclusive jurisdiction and venue of courts of New South Wales for all disputes arising out of or relating to this Agreement.

17.3 This Agreement does not create a joint venture, partnership, employment, or agency relationship between Big Mobile and the Buyer.

17.4 Big Mobile will not be taken to have waived or modified any term of this Agreement except by an express statement in a document signed by a duly authorised representative of Big Mobile.

17.5 The Buyer may not assign any of its rights pertaining to this Agreement without the prior express written consent of Big Mobile. This Agreement, including any of Big Mobile's rights or obligations under it may be assigned by Big Mobile on notice to the Buyer, provided that the relevant assignee undertakes to perform all of Big Mobile's obligations under this Agreement.

17.6 If any provision of this Agreement is found invalid or unenforceable pursuant to judicial decree or decision, the remaining provisions will remain valid and enforceable, and the unenforceable provisions will be taken to be modified to the extent necessary to make them enforceable.

17.7 Any notice, approval, consent or other communication in connection with this Agreement must be in writing and may be given by hand, post, email or facsimile to each party's address for service of notices set out in the Campaign Form.

17.8 By clicking on the "I accept this insertion order" button you have:

- (a) provided electronic verification that you accept and are bound by the terms and conditions of this Agreement; and
- (b) the authority to agree to the placing of this Insertion Order.

## 18 Dictionary

In this Agreement, unless the context otherwise requires:

**AANA Codes of Practice** means the advertising self-regulation codes of practice prescribed and promoted by the Australian Association of National Advertisers and any codes of practice amending or superseding these codes;

**Advertising Campaign** means any form of advertising, marketing or promotion for any person or entity, products or services that is capable of being viewed or delivered on or via a mobile service to a mobile device whether in a format now known or invented in the future including SMS and MMS messaging, email, mobile, Mobile Internet based advertising of any nature whatsoever including banner advertising, video advertising, framing techniques, pop up windows, bridge or jump pages, click-throughs, hypertext links and branded or sponsored content, placements, marketing surveys, promotions and/or competitions and advertising embedded content (whether audio, visual or audio-visual or otherwise), to which the Buyer Booking relates;

**Advertising Content** means information, data or other content (including rich content, images, text, film, video clips, streaming video footage and other electronic content) which comprises advertising material intended for inclusion in the Available Advertising Space;

**Agreement**, in relation to each Buyer Booking, means the agreement evidenced by this document, and includes the Campaign Form for that Buyer Booking, the Buyer Booking Terms and any documents incorporated by reference;

**Available Advertising Space** means the areas specified by Big Mobile to potentially allow the insertion of Advertising Content and which may include:

- (a) Mobile phone portals (on and off deck) and other publisher WAP / Mobile Internet sites;
- (b) person to person messaging services (e.g. SMS, MMS and email); and
- (c) Any other digital areas, communications channels or environments which may become available for mobile or otherwise;

**Big Brochure** means the document which describes the products, services & media categories or areas within which Big Mobile will allow the insertion of Advertising Content, and which specifies the pricing for Buyer Booking, as issued and varied by Big Mobile from time to time. A copy of the Big Brochure can be found at [www.bigmobile.com](http://www.bigmobile.com);

**Big Mobile** means BIG MOBILE PTY LTD of Suite 1208 14 Martin Place SYDNEY NSW 2000;

**Big Mobile Content Standards Code** means the standards adhered to by Big Mobile from time to time which are consistent with applicable Laws, the requirements of Regulators and the content guidelines of mobile telephone carriers and publishers;

**Business Day** means a day which is not a Saturday, Sunday or public holiday in New South Wales;

**Buyer** means any agency or entity which makes or proposes to make a Buyer Booking;

**Buyer Booking** means a booking placed by the Buyer with Big Mobile for the insertion of particular Advertising Content into a particular part of the Available Advertising Space on the terms of this Agreement;

**Buyer Booking Charges** means the charges payable by the Buyer in connection with a Buyer Booking (including the production by Big Mobile of any Advertising Content), as specified in the Campaign Form or, if nothing is specified in the Campaign Form, the Big Brochure;

**Buyer Booking Terms** means these terms and conditions;

**Campaign Form** means the booking form, insertion order or similar document attached to or forming part of this document which sets out the details of the Advertising Campaign, Advertising Content and details of the Buyer Booking and Available Advertising Space;

**Commencement Date** means the date the last party executes this Agreement;

**Confidential Information** includes, in respect of a party, all information about its technology, business, business plans, strategies, customers, suppliers and strategic business relationships (however recorded or disclosed including in writing, orally or in electronic form) and in the case of Big Mobile includes all information recorded and/or developed by Big Mobile in the course of placing the Advertising Content on the Available Advertising Space;

**Displayed** or **Display** means, in relation to a Buyer Booking, the insertion of Advertising Content referred to in the Buyer Booking into the relevant part of the Available Advertising Space;

**Format** means the specifications for the Advertising Content as required by Big Mobile from time to time. These specifications can be found at href="<http://www.bigmobile.com/spec>" target='\_BLANK'>[www.bigmobile.com/spec](http://www.bigmobile.com/spec);

**Industry Code** means any industry code of conduct or practice that may be applicable to the Services, a party or a party's business activities and includes any industry codes of conduct that are prescribed by any Laws or by virtue of a party's membership of an industry body or professional association (or similar).

**Insolvency Event** means an administrator, receiver, liquidator or provisional liquidator is appointed to the party, or the party resolves to enter into any settlement, moratorium or similar arrangement for the benefit of the party's creditors, or the party is unable to pay its debts when they are due;

**Intellectual Property Rights** means any and all intellectual and industrial property rights throughout the world including rights in respect of or in connection with any confidential information, copyright (including future copyright), moral rights, inventions (including patents), trade marks, service marks, domain names, designs and circuit layouts whether or not now existing and whether or not registered or registrable including any right to apply for the registration of such rights;

**Laws** means all laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, rules, regulatory principles and requirements, statutory rules of an industry body, statutory mandatory codes of conduct, writs, orders, injunctions, judgments, and Australian generally accepted accounting principles;

**Mobile Advertising Guidelines** means Big Mobile's mobile advertising compliance rules and criteria determined by the Australian Interactive Media Industry Association from time to time;

**Notification** means any notice, request, direction or instruction sent by a Regulator to a party during or after the Term of this Agreement in respect of the Advertising Campaign, Advertising Content or Services.

**Payment Date** has the meaning given in Clause 8;

**Personal Information** means information or an opinion, whether recorded in a material form or not, about an individual (including a customer or consumer) whose identity is apparent, or can reasonably be ascertained, from the information or opinion, regardless of whether such information is provided by the Buyer, Big Mobile or a third party;

**Regulator** means any regulatory agency, taxing authority or any private entity that functions in a quasi-regulatory manner, having any applicable jurisdiction and includes the Advertising Standards Bureau, Australian Communications and Media Authority, the Australian Competition and Consumer Commission, the Department of Broadband, Communications and the Digital Economy, the Office of the Privacy Commissioner, the Classification Board, the Telecommunications Industry Ombudsman and any authority, agency or entity that is substituted for, or takes over the functions of, any of those organisations;

**Services** means the services provided by Big Mobile pursuant to this Agreement;

**Start Date** means the start date set out on the Campaign Form;

**Term** means the period from the Commencement Date until Big Mobile has completed providing the Services to the Buyer;

**Third Party Publisher** or **Third Party Publishers** means a provider of mobile advertising space which provides the Available Advertising Space which hosts the Advertising Content; and

**Third Party Publisher Terms and Conditions** means the relevant Third Party Publisher's guidelines, content standards, manuals, terms and conditions, advertising charters and all other documents which govern the use of Third Party Publisher Available Advertising Space.