

# MPN, LLC Advertising Agreement for *macCompanion*

Our pricing is low enough that the Terms and Conditions that follow could be a handshake negotiation and we'd be done with it. However, we live in a cruel world, so we have to protect both parties by presenting the following legalize. Sorry, that's just smart business. But we intend to also abide by the KISS principle (Keep It Simple, Silly).

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## Terms and Conditions

This document may not fully cover sponsorships and other arrangements [Affiliates] involving content association or integration and/or special production, but may be used as the basis for the media components of such contracts. For more information on the details, please see the *macCompanion* Media Kit.

### Ad Placement – *macCompanion* PDF issue

Ads will be placed in [macCompanion](#) magazine at our discretion. If you have a preference, just ask.

### Ad Placement – *macCompanion* PDF website

For the website, the location of the ads will be at the discretion of the webmaster.

## Pricing

You may also purchase multiple locations for your ads. There is also a 20% discount for multiple months. No limit.

For the PDFed version of [macCompanion](#) the pricing per monthly issue is as follows:

(No price differences in black-and-white or color versions.)

Sixteenth-Page Ads – \$40 USD

Eighth-Page Ads – \$50 USD

Quarter-Page Ads – \$60 USD

One Third-Page Ads – \$70 USD

Two-Third-Page Ads – \$150

Half-Page Ads – \$100 USD

Full-Page Ads – \$200 USD

For advertising on the [macCompanion](#) website:

We have flat fees for 1-month intervals for our website. These can begin at any time and last for 30 days.

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Pre-programmed banner ads with links to your site are \$100 USD per month. No limit.

Currently, the only size accepted is 468x60 pixels and the only formats accepted are:

JPEGs  
Animated GIFs  
Non-animated GIFs

If we need to do the programming and design effort, add \$100 USD per hour, with a minimum 2-hour base for either the PDFed version or the website.

### **Liabilities**

This is where the handshake comes into play. You send the ad and the money to us, and we'll post the ad. The web site can have the ad loaded at any time, but the ads for the PDFed version of *macCompanion* need to be to us by the 25<sup>th</sup> of each month to be considered for publication for the following month. And yes, you may pay for multiple months and multiple locations for your ads, especially if you have more than one product you want to sell.

A signed check that is sent to us will be considered to be a signed contract. Or you can do the payment electronically via PayPal. We also accept Money Orders and US Currency.

### **Ad Effectiveness**

We have excellent site statistics. But our costs are so low for advertising that just one or two sales will probably have covered the costs to you for the advertising with us. It is more important that you get results and not "eyeballs". Our hits have been much higher than expected and statistics show that to be increasing at a steady level. For more information, see the *macCompanion* Media Kit.

### **Cancellation or Termination**

If at any time you feel we have not been doing our job with putting your ads on our site in a timely manner, you may receive a pro-rated return on your ad investment for cancellation. We hope it never comes to that, but if it does, we have you safely covered. We want you to feel your investment in us has been worth it.

### **Force Majeure<sup>1</sup>**

Excluding payment obligations, neither party will be liable for delay or default in the performance of its obligations under this Agreement if such delay or default is caused by conditions beyond its reasonable control, including but not limited to, fire, flood, accident, earthquakes, telecommunications line failures, electrical outages, network failures, acts of God, or labor disputes. In the event that MPN, LLC suffers such a delay or default, MPN, LLC shall make reasonable efforts within five business days to recommend a substitute transmission for the ad or time period for the transmission. If no such substitute time period or makegood is reasonably acceptable to Your agency, MPN, LLC shall allow your agency a pro rata reduction in the space, time and/or program charges hereunder in the amount of money assigned to the space, time and/or program charges at time of purchase. In addition, your agency shall have the benefit of the same discounts that would have been earned had there been no default or delay.

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<sup>1</sup> Force Majeure literally means "greater force". These clauses excuse a party from liability if some unforeseen event beyond the control of that party prevents it from performing its obligations under the contract. Typically, force majeure clauses cover natural disasters or other "Acts of God", war, or the failure of third parties--such as suppliers and subcontractors--to perform their obligations to the contracting party. It is important to remember that force majeure clauses are intended to excuse a party only if the failure to perform could not be avoided by the exercise of due care by that party.

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If your agency's ability to transfer funds to third parties has been materially negatively impacted by an event beyond the your agency's reasonable control, including, but not limited to, failure of banking clearing systems or a state of emergency, then Your agency shall make every reasonable effort to make payments on a timely basis to MPN, LLC, but any delays caused by such condition shall be excused for the duration of such condition. Subject to the foregoing, such excuse for delay shall not in any way relieve Your agency from any of its obligations as to the amount of money that would have been due and paid without such condition.

To the extent that a force majeure has continued for 5 business days, MPN, LLC or Your agency has the right to cancel the remainder of the ad without penalty.

### **Ad Materials**

It is your agency's obligation to submit Advertising Materials in accordance with MPN, LLC's existing advertising criteria or specifications (including content limitations, technical specifications, privacy policies, user experience policies, policies regarding consistency with MPN, LLC's public image, community standards regarding obscenity or indecency (taking into consideration the portion(s) of the Site on which the ads are to appear), other editorial or advertising policies, and material due dates). If Advertising Materials are late, the Advertiser is still responsible for the media purchased pursuant to the original agreed-to negotiation.

MPN, LLC reserves the right within its discretion to reject or remove from its site any ads where the Advertising Materials or the site to which the ad is linked, do not comply with its policies, or that in MPN, LLC's sole reasonable judgment, do not comply with any applicable law, regulation or other judicial or administrative order. In addition, MPN, LLC reserves the right within its discretion to reject or remove from its site any ads where the Advertising Materials or the site to which the ad is linked are or may tend to bring disparagement, ridicule, or scorn upon MPN, LLC or any of its Affiliates (as defined below), provided that if MPN, LLC has reviewed and approved such ads prior to their use on the Site, MPN, LLC will not immediately remove such ads before making commercially reasonable efforts to acquire mutually acceptable alternative Advertising Materials from your agency.

If Advertising Materials provided by Your agency are damaged, not to MPN, LLC's specifications, or otherwise unacceptable, MPN, LLC will use commercially reasonable efforts to notify Your agency within five business days of its receipt of such Advertising Materials.

MPN, LLC will not edit or modify the submitted Ads in any way, including, but without limitation, resizing the Ad, without Your agency approval. MPN, LLC shall use all such Ads in strict compliance with these Terms and Conditions and any written instructions provided by Your agency.

When applicable, Third Party Ad Server tags shall be implemented so that they are functional in all aspects. MPN, LLC, on one hand, and Your agency and the Advertiser, on the other, will not use the other's trade name, trademarks, logos or ads in a public announcement (including, but not limited to, through any press release) regarding the existence or content of these Terms and Conditions or an IO without the other's prior written/Email approval.

### **Indemnification**

MPN, LLC agrees to defend, indemnify and hold harmless your agency and the Advertiser, their Affiliates (as defined below) and their respective directors, officers, employees and agents from any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees) (collectively "Losses") incurred as a result of a Third Party (as defined below) claim, judgment or proceeding relating to or arising out of MPN, LLC's display or delivery of any ad in breach of these Terms and Conditions, or that materials provided by MPN, LLC (and not by your agency or the Advertiser) for an ad violate the right of a Third Party, are defamatory or obscene, or violate any law, regulations or other judicial or administrative action, except to the extent:

- (1) that such claim, judgment or proceeding resulted from such materials fulfilling your agency's or the Advertiser's unique specifications provided that MPN, LLC did not know or should not have reasonably known that such specifications would give rise to the Loss or
- (2) that such materials are provided to your agency or the Advertiser for review and the Agency or the Advertiser knew or should have reasonably known from the visual or sonic expression of the Advertisement, while

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MPN, LLC did not know or should not have reasonably known, that such material violated any law, regulations or other judicial or administrative action, violate the right of a Third Party or are defamatory or obscene.

An Affiliate means, with respect to either party, any corporation, firm, partnership, person or other entity, whether de jure or de facto, which directly or indirectly owns, is owned by or is under common ownership with such party to the extent of at least 50% of the equity having the power to vote on or direct the affairs of the entity, and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with such party. A "Third Party" means an entity other than the parties to this Agreement, their respective Affiliates, and each of their respective directors, officers, employees and agents.

The Advertiser agrees to defend, indemnify and hold harmless MPN, LLC, its Affiliates and their respective directors, officers, employees and agents from any and all Losses incurred as a result of a Third Party claim, judgment or proceeding relating to or arising out of the Advertiser's breach, violation of Policies (to the extent the applicable terms of such Policies have been provided to Your agency at least ten days prior to the violation giving rise to the claim), or the content or subject matter of any Ad or Advertising Materials to the extent used by MPN, LLC in accordance with these Terms and Conditions, including but not limited allegations that such content or subject matter violate the right of a Third Party, are defamatory or obscene, or violate any law, regulations or other judicial or administrative action.

Your agency represents and warrants that it has the authority as agent to the Advertiser to bind the Advertiser to these Terms and Conditions. Your agency agrees to defend, indemnify and hold harmless MPN, LLC its Affiliates and their respective directors, officers, employees and agents from any and all Losses incurred as a result of Your agency's alleged breach of the foregoing sentence.

If any action will be brought against either party (the "Indemnified Party") in respect to any allegation for which indemnity may be sought from the other party ("Indemnifying Party"), the Indemnified Party will promptly notify the Indemnifying Party of any such claim of which it becomes aware and will provide reasonable cooperation to the Indemnifying Party at the Indemnifying Party's expense in connection with the defense or settlement of any such claim; and be entitled to participate at its own expense in the defense of any such claim. The Indemnified Party agrees that the Indemnifying Party will have sole and exclusive control over the defense and settlement of any such third party claim. However, the Indemnifying Party will not acquiesce to any judgment or enter into any settlement that adversely affects the Indemnified Party's rights or interests without the prior written consent of the Indemnified Party.

Notwithstanding the foregoing, in the event that any Indemnifying Party is required to defend, indemnify or hold harmless an Indemnified Party from a claim, judgment or proceeding of a Related Party (as defined below) of such Indemnified Party pursuant to this Section X, Losses incurred in connection with such claim, judgment or proceeding will be limited to those that are reasonably foreseeable. A "Related Party" is a party in a contractual relationship with the Indemnified Party where such specific contractual relationship relates to the Loss being asserted by that Related Party.

### **Limitation of Liability**

Excluding the parties obligations or damages that result from a breach or intentional misconduct by the parties, in no event will either party be liable for any consequential, indirect, incidental, punitive, special or exemplary damages whatsoever, including without limitation, damages for loss of profits, business interruption, loss of information and the like, incurred by the other party arising out of this Agreement, even if such party has been advised of the possibility of such damages.

### **Non-disclosure, Data Ownership, Privacy and Laws**

We don't want to get burned and we don't want you getting burned either with this transaction.

Any marked confidential information and proprietary data provided by one party, including the ad description, and the pricing of the ad, set forth in this agreement, shall be deemed "Confidential Information" of the disclosing party. Confidential Information shall also include information provided by one party, which under the circumstances surrounding the disclosure would be reasonably deemed confidential or proprietary. Confidential Information shall not be released by the receiving party to anyone except an employee, or agent who has a need to know same, and who is bound by confidentiality obligations. Neither party will use any portion of Confidential

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Information provided by the other party hereunder for any purpose other than those provided for under this Agreement.

For purposes of this Section, your agency and the Advertiser shall be considered one party. Notwithstanding anything contained herein to the contrary, the term "Confidential Information" shall not include information which:

- (1) was previously known to a party; was or becomes generally available to the public through no fault of the receiving party ("Recipient");
- (2) was rightfully in Recipient's possession free of any obligation of confidence at, or subsequent to, the time it was communicated to Recipient by the disclosing party ("Discloser");
- (3) was developed by employees or agents of Recipient independently of and without reference to any information communicated to Recipient by Discloser; or
- (4) was communicated by Discloser to an unaffiliated third party free of any obligation of confidence.

Notwithstanding the foregoing, either party may disclose Confidential Information in response to a valid order by a court or other governmental body, as otherwise required by law or the rules of any applicable securities exchange or as necessary to establish the rights of either party under this Agreement; provided, however, that both parties will stipulate to any orders necessary to protect said information from public disclosure.

All personally identifiable information provided by individual web users who are informed that such information is being gathered solely on behalf of the Advertiser pursuant to the Advertiser's posted privacy policy is the property of the Advertiser, is subject to the Advertiser's posted privacy policy, and is considered Confidential Information. Any other use of such information must be signed by both parties.

MPN, LLC, your agency, and the Advertiser shall post on their respective Web sites their privacy policies and adhere to their privacy policies, which abide by the applicable laws. Failure by MPN, LLC, on one hand, or your agency or the Advertiser, on the other, to continue to post a privacy policy or non-adherence to its own privacy policy is grounds for immediate cancellation by the other parties.

Your agency, the Advertiser and MPN, LLC will comply with at all times, all applicable federal, state and local law, ordinances, regulations and codes which are relevant to their performance of their respective obligations under this Agreement.

### **Third-party Ad Servers (Applicable if 3rd Party Server Is Used)**

What is ours is ours and what is yours is yours, but if there are links to 3<sup>rd</sup> Party servers, we will not be held liable for broken links. Those will be your responsibility and not ours to make sure they work properly. Otherwise the following legaleze will take affect:

Where an Agency is utilizing a 3rd Party Ad Server and that 3rd Party Ad Server cannot serve the ad, the Agency shall have a one-time right to temporarily suspend delivery under the agreement for a period of up to 72hours. Upon written notification by the Agency of a non-functioning 3rd Party Ad Server, MPN, LLC has 24 hours to suspend delivery. Following that period, the Agency will not be held liable for payment for any ad that runs within the immediate 72-hour period thereafter until MPN, LLC is notified that the 3rd Party Ad Server is able to serve ads. After the 72-hour period passes and the Agency has not provided written notification that MPN, LLC can resume delivery, the Advertiser will pay for the ads that would have run or are run after the 72 hour period but for the suspension and can elect MPN, LLC to serve Ads until 3rd Party Ad Server is able to serve Ads. If the Agency does not so elect for MPN, LLC to serve the ads until the 3rd Party Ad Server is able to serve ads, MPN, LLC may utilize the inventory that would have been otherwise used for MPN, LLC's own advertisements or advertisements provided by a third party Upon notification that the 3rd Party Ad Server is functioning, MPN, LLC will have 72 hours to resume delivery. Any delay in the resumption of delivery beyond this period, without reasonable explanation, will result in MPN, LLC owing a makegood to the Agency.

### **Miscellaneous**

Just to make sure we are clear on everything we also include the following:

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MPN, LLC represents and warrants that MPN, LLC has all necessary permits, licenses, and clearances to sell the inventory represented here subject to the terms and conditions of this agreement, including any applicable Policies. The Advertiser represents and warrants that the Advertiser has all necessary licenses and clearances to use the content contained in their Ads and Advertising Materials.

Neither the Agency nor the Advertiser may resell, assign or transfer any of its rights or obligations hereunder, and any attempt to resell, assign or transfer such rights or obligations without MPN, LLC's prior written approval will be null and void. All terms and provisions of these Terms and Conditions will be binding upon and inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns.

These Terms and Conditions constitute the entire agreement of the parties with respect to the subject matter and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to the subject matter of this agreement. This agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same document.

All agreements shall be governed by the laws of the State of Washington. MPN, LLC and your Agency (on behalf of itself and not the Advertiser) agree that any claims, legal proceeding or litigation arising in connection with these Terms and Conditions will be brought solely in Washington, and the parties consent to the jurisdiction of such courts. No modification of these Terms and Conditions shall be binding unless in writing and signed by both parties. If any provision herein is held to be unenforceable, the remaining provisions shall remain in full force and effect. All rights and remedies hereunder are cumulative.

Any notice required to be delivered hereunder shall be delivered five days after deposit in U.S. mail, return receipt requested, one business day if sent by overnight courier service, and immediately if sent electronically or by fax. All notices to MPN, LLC and Agency shall be sent to the contact as noted in the agreement with a copy to the Legal Department. All notices to the Advertiser shall be sent to the address specified in this agreement.

Termination or expiration of this Agreement shall survive for 30 days after the termination or expiration of this Agreement. In addition, each party shall return or destroy the other party's Confidential Information and remove Advertising Materials and Ad tags.

### **Contractual Agreement**

If you can live with this agreement, then please sign this last page and get it back to us with payment we negotiated. [You may create a PDF and send the agreement electronically with the Ad(s) materials] We will accept payments by Cash, Money Order or even electronically through PayPal.

Signed:

Robert Pritchett, in behalf of MPN, LLC  
Emailto: [rpritchett@maccompanion.com](mailto:rpritchett@maccompanion.com)  
Phone: 509-210-0217  
Date:

Signed:

In behalf of (Agency)  
Email:  
Phone:  
Date:  
Website:

**And of course, the "Bottom Line":**

Amount agreed to: \$

For (include total days):