

UTAZAS.COM INSERTION ORDER

VERSION: 2005-02-15

TERMS AND CONDITIONS

1. **INSERTION ORDERS.** These terms and conditions ("Standard Terms") shall govern any insertion order ("IO") submitted by the advertiser or its agency (collectively, "Advertiser"). Advertiser and its agency (if applicable) shall be jointly and severally responsible under the IO and Standard Terms (collectively, "Agreement"). Subject to these Standard Terms, the operator or agency of utazas.com service (collectively, "utazas.com"), agrees to make commercially reasonable efforts to display the Advertisements set forth in the IO on the dates specified in the IO.
2. **TERMS OF PAYMENT.** If utazas.com has not extended credit to Advertiser (in its sole discretion), Advertiser will pay utazas.com before the Start Date set forth in the IO. If utazas.com approves a credit request, utazas.com will invoice Advertiser as set forth in the IO and Advertiser will pay utazas.com within thirty (30) days of the invoice date. Any late payment will accrue interest at the lesser of the U.S. Prime Rate of interest plus 3% per month or the maximum interest allowable under applicable law. If Advertiser fails to make payment, Advertiser will be responsible for all expenses (including attorneys' fees) incurred by utazas.com in collecting such amounts. Unless agreed otherwise by utazas.com, all payments due hereunder are in Euros (€) and are exclusive of any applicable taxes, for which Advertiser shall be responsible.
3. **SUBMISSION OF ADVERTISING.** Advertiser will deliver all Advertisements to utazas.com no later than 10 business days before the scheduled Start Date. Advertiser hereby grants to utazas.com a non-exclusive, worldwide, fully paid license to use, perform, reproduce, display, transmit and distribute the Advertisement and all contents therein, including Advertiser's trademarks and logos, in accordance herewith.
4. **POSITIONING.** Except as otherwise expressly provided in the IO, the timing and positioning of Advertisements within the utazas.com web site or on any page of the utazas.com web site is at the sole discretion of utazas.com.
5. **RIGHT TO REJECT ADVERTISEMENT.** utazas.com reserves the right to reject, suspend, or cancel any Advertisement (a) for failure to comply with its then-current generally applicable policies concerning the technical specifications for and content of advertising, (b) if directed to do so by any law enforcement agency, court, or other governmental agency, or (c) if it determines, in its sole discretion, that the Advertisement may subject utazas.com to criminal or civil liability for any reason or is otherwise offensive or objectionable. utazas.com's remedies under this Section shall be in addition to and not in exclusion of any other remedy set forth in this Agreement.
6. **STATISTICS.** utazas.com makes no representations regarding usage statistics, impressions, click-throughs or other statistical measurements (collectively, "Measurement Units") other than those expressly set forth in the IO. Advertiser acknowledges that delivery statistics provided by utazas.com are the official and definitive measurements of utazas.com's performance on any delivery obligations provided in the IO. No other measurements or usage statistics (including those of Advertiser or any third party) shall be accepted by utazas.com or have any effect on this Agreement. An "impression" means each occurrence of a display of an Advertisement and a "click through" means each time an utazas.com web site user ("User") clicks on an Advertisement.
7. **NO WARRANTY.** PRO-FO KIADO HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO ANY MATTER HEREUNDER, INCLUDING WITHOUT LIMITATION, PLACEMENT OF ADVERTISING AND ANY OTHER SERVICES PROVIDED, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY PRO-FO KIADO, OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT).
8. **LIMITATIONS OF LIABILITY.** a. Remedy. If utazas.com fails to publish an Advertisement in accordance with the schedule provided in the IO, fails to deliver the number of Measurement Units specified in the IO (if any) by the End Date specified in the IO, or in the event of any other failure, technical or otherwise of such Advertisement to appear as provided in the IO, the sole liability of utazas.com, if any, and exclusive remedy of Advertiser shall be limited to, at utazas.com's sole discretion, placement of a mutually agreeable substitute Advertisement at a later time in a comparable position or extension of the End Date specified in the IO until the total Measurement Units are delivered. b. **NO CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES WILL PRO-FO KIADO BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF ADVERTISER, ITS APPOINTEES OR ITS OR THEIR CUSTOMERS (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF GOODWILL, USE OF OR RELIANCE ON THE SERVICES PROVIDED HEREUNDER, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE. IN NO EVENT WILL THE AGGREGATE LIABILITY THAT PRO-FO KIADO MAY INCUR IN ANY ACTION OR PROCEEDING EXCEED THE LESSER OF THE TOTAL AMOUNT ACTUALLY PAID TO PRO-FO KIADO BY ADVERTISER DURING THE PRECEDING THREE MONTHS OR €200. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THIS SECTION WILL NOT APPLY ONLY IF AND TO THE EXTENT THAT THE LAW OR A COURT OF COMPETENT

JURISDICTION REQUIRES LIABILITY UNDER APPLICABLE LAW BEYOND AND DESPITE THESE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS. c. Limitations. Without limiting the foregoing, utazas.com shall have no liability for any failure or delay resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown, actions or inaction of Advertiser or third parties, Advertiser's equipment or software and/or any third party equipment not within the sole control of utazas.com, or any other condition affecting production or delivery in any manner beyond the control of utazas.com. Advertiser acknowledges that utazas.com has entered into this Agreement in reliance upon the limitations of liability set forth herein and that the same is an essential basis of the bargain between the parties.

9. ADVERTISER'S WARRANTIES a. Authority. Author represents and warrants to utazas.com that: (i) it has the authority to enter into this Agreement, and (ii) Advertiser holds all necessary rights, licenses and consents to permit the use of the Advertisements by utazas.com for the purposes of this Agreement. b. Content. Advertiser represents and warrants to utazas.com that the use, reproduction, distribution, transmission or display of Advertisements, any data regarding Users, and any material to which Users can link, or any products or services made available to Users, through Advertisements: (i) is not and will not be defamatory, libelous, obscene, indecent, or illegal, (ii) does not and will not violate any right of confidentiality, privacy or publicity of any third party, and (iii) does not and will not violate any copyright, trade-mark, trade secret, or other intellectual property right of any third party.

10. INDEMNIFICATION. Advertiser agrees to indemnify, defend and hold utazas.com harmless from and against any and all liability, loss, damages, claims or causes of action, including reasonable legal fees and expenses, arising out of or related to (i) any breach of the representations and warranties in Section 9, or (ii) any third party claim arising from: (a) use of or access to the Advertisements, (b) any material to which the Advertisements link, or (c) any products or services made available, promoted, or advertised through the Advertisement. Advertiser shall not, without the prior written consent of utazas.com, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened claim unless the settlement, compromise or consent provides for and includes an express, unconditional release of all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, against utazas.com.

11. TERM AND TERMINATION. a. Term. The term of this Agreement ("Term") commences on the Acceptance Date set forth in the IO and terminates on the second anniversary of the Acceptance Date, unless earlier terminated pursuant to this Section. Except as expressly set forth in the IO, any renewal of the IO and acceptance of any additional advertising order shall be at utazas.com's sole discretion. b. Termination. Except as otherwise expressly provided in the IO and this Section, the IO is non-cancelable by Advertiser, and utazas.com may, in its sole discretion and for any reason whatsoever, terminate this Agreement upon 30 days' notice to Advertiser. Either party may terminate this Agreement immediately if the other party is in material breach and fails to cure within thirty (30) days of written notice from the other party. c. Suspension of Advertising. If Advertiser fails to make any payment or otherwise breaches the Agreement, utazas.com may at its sole discretion and option suspend all services for Advertiser until Advertiser remedies the breach. Any failure by Advertiser to deliver acceptable Advertisements to utazas.com in accordance with Sections 3 and 5 shall result in a pro-rata reduction in any commitment by utazas.com to deliver a specific number of Measurement Units commensurate with Advertiser's delay, but will not excuse Advertiser from its obligation to pay for such reserved inventory or result in any right to a refund or credit for Advertiser. Any action taken pursuant to this paragraph will not limit or exclude any other claims or remedies that utazas.com may assert under this Agreement or by law or constitute a breach of any provision of this Agreement. d. Termination Consequences. Upon the expiration or termination of this Agreement for any reason, any rights granted to Advertiser will immediately cease and all fees and other charges for Advertisements placed through the date of termination will be due. If utazas.com terminates this Agreement for material breach or Advertiser fails to provide acceptable Advertisements for utazas.com to display pursuant to this Agreement, Advertiser will remain liable for all fees due hereunder without right of refund or credit. The provisions of Sections 7, 8, 9, 10, 11, and 12 will survive the expiration or termination of this Agreement.

12. MISCELLANEOUS AND PERSONALLY IDENTIFIABLE INFORMATION. a. Confidentiality. Advertiser shall protect utazas.com's confidential information with reasonable care, and shall not disclose it without utazas.com's prior written permission, unless legally compelled to do so. "Confidential information" is nonpublic information that utazas.com designates as being confidential or that, under the circumstances surrounding receipt, Advertiser should know is treated as confidential by utazas.com, including utazas.com's business policies or practices, usage statistics and other related statistics, technical information, and the terms of this Agreement. b. Assignment. Advertiser may not assign this Agreement or any of its rights or obligations without utazas.com's prior written approval. Any attempt to do so without utazas.com's approval will be void. utazas.com may assign this Agreement or any of its rights or obligations, upon notice to Advertiser, to an affiliated company or to any other company or entity pursuant to a merger, acquisition, sale, corporate reorganization or other similar transaction. c. Interpretation. These Standard Terms and the IO, together with any exhibits attached thereto, constitute the entire agreement between the parties with respect to the subject matter thereto and supersedes all proposals, warranties, prior agreements, or any other communications between the parties relating to the subject matter. In the event of any inconsistency between the IO and the Standard Terms, the Standard Terms shall control. This Agreement will be governed by and interpreted in accordance with the law of the state of New York, excluding its conflict of law principles, and the parties hereby consent to the jurisdiction of the federal and state courts located in New York, New York, waiving any objection to forum non conveniens. Except as otherwise provided above, any waiver, amendment or other modification of this Agreement will not be effective unless in writing and signed by the party against whom enforcement is sought. If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement. d. ANY AND ALL PERSONALLY IDENTIFIABLE INFORMATION, INCLUDING, BUT NOT LIMITED TO CUSTOMER AND USER NAMES, EMAIL ADDRESSES AND CREDIT CARD INFORMATION, RECEIVED BY ADVERTISER PURSUANT TO THIS INSERTION ORDER (COLLECTIVELY, "CONFIDENTIAL INFORMATION") MUST BE KEPT STRICTLY CONFIDENTIAL BY

ADVERTISER. ADVERTISER MAY NOT USE, IN ANY WAY (INCLUDING BUT NOT LIMITED TO STORAGE, USE, RE-USE, SELL, ETC.), THE CONFIDENTIAL INFORMATION OR ANY PORTION THEREOF FOR ANY PURPOSE OTHER THAN IN DIRECT CONNECTION WITH THE PERFORMANCE OF THE SPECIFIC WRITTEN REQUEST SUBMITTED TO ADVERTISER BY PRO-FO KIADO AND/OR ITS USERS OR CUSTOMERS. ADVERTISER SHALL BE RESPONSIBLE FOR A BREACH OF THIS PROVISION BY ADVERTISER, ITS EMPLOYEES AND AGENTS, AND SHALL INDEMNIFY AND HOLD HARMLESS PRO-FO KIADO, ITS OFFICERS, DIRECTORS, EMPLOYEES AGAINST ALL CLAIMS, LIABILITIES AND ACTIONS ARISING IN CONNECTION WITH ANY SUCH BREACH.

13. MULTIPLE IO. These Advertising Terms and Conditions remain in effect and shall govern and applicable to all and any IO submitted, resubmitted or extended by the Advertiser during a two year (730 days) period from the date of signature.