



## TERMS OF ADVERTISING SERVICES

THESE TERMS OF ADVERTISING SERVICES ("Terms of Service") govern the provision of advertising services by Red Apple Media, Inc. ("Red Apple Media" or "Company") to advertisers ("Advertisers") on various platforms, which may include radio stations, namely WABC-AM, WLIR-FM, websites, namely WABCRadio.com (including the WABC Radio mobile application), and social media websites (collectively referred to as "Platforms") to purchase commercial announcements, paid programming, online/web-based advertisements, mobile advertisements and/or other advertising (individually, an "Ad" and collectively, "Ads"), depending on the agreed-upon service terms, reflected in the Order Form ("Order Form"). The Order Form and these Terms of Service constitute the complete terms of agreement for advertising services between the parties ("Agreement"). By engaging with Red Apple Media for advertising services, all Advertisers acknowledge that they have read, understood, agreed to comply with and be bound by these Terms of Service.

**1. ADVERTISING SERVICES.** These Terms of Services cover advertising services provided by Red Apple Media with respect to its subsidiaries and/or otherwise related entities. Red Apple Media agrees to broadcast Advertisers' advertisements on the selected Platforms, subject to the specifications outlined in the Order Form specific to each deal. Advertisers acknowledge that the duration of ad play, target audience, frequency of Ad placement, and other specifications shall be defined in the Order Form.

**2. TERM AND TERMINATION.** The term of the Agreement ("Term") is at a minimum two (2) weeks, or such longer period as reflected in the Order Form. The Term may be extended only by a written agreement executed by the parties prior to the Agreement's expiration date. Unless stated otherwise on the Order Form, either party may terminate with or without cause upon fourteen (14) days written notice to the other, up until fourteen (14) days prior to the start of the campaign, unless the Order Form states that the Agreement is "non-cancelable," in which case the full campaign payment must be paid in full, or includes a "minimum commitment," in which case an Agreement cannot be terminated prior to the satisfaction of the stated commitment period. If a valid notice of termination is received within fourteen (14) days of the start of the campaign, or during the campaign, the terminating party must satisfy its performance and/or payment obligations for fourteen (14) days from the date of notification. Either Advertiser or Red Apple Media may terminate the Agreement if the other party is in material breach and such breach is not cured within ten (10) days of written notice from the non-breach, provided, however, that Red Apple Media may terminate immediately if Advertisers fails to pay any invoice when due. Upon termination, all charges for Ads that have been displayed and/broadcast on Red Apple Media's web site or radio before termination shall become immediately due and payable, including interest on any sums not paid when due at a rate of 1% per month, or the maximum rate permitted by applicable law, if less. If Advertiser terminates, cancels or fails to fulfill all of its obligations, or if Red Apple Media cancels or terminates for breach, Advertiser shall not receive the benefit of any previously negotiated discounts. If Red Apple Media contracts to administer an on-air contest/giveaway/promotion as part of the advertising order, the advertising order and contest are non-cancelable.

**3. AUTHORITY.** If Advertisers are accepting these terms on behalf of a legal entity, the Advertisers represent that the individual signing the Order Form, thereby binding themselves to these Terms of Service, have the authority to bind such entity to these terms, in which case the term "Advertisers" refers to such entity. Please read these terms carefully. By accessing or using the advertising services, the Advertisers acknowledge that the Advertisers have read, accept and agree to be bound by these Terms of Service.

**4. CONSIDERATION.** In consideration of the placements of advertisements and for other good and valuable consideration, Advertisers agree to provide Company during the term of the agreement the amount set forth in the Order Form.

**5. PAYMENT TERMS.** (a) Ads in Any Media. Advertiser acknowledges that Ads will require Advertiser to make full payment in advance, unless so specified on the Order Form. As such, Red Apple Media shall invoice Advertiser in advance on a semi-monthly basis (with payment due as set forth in the General Payment Terms below). If any federal, state or local taxes are imposed, such taxes shall be assumed and paid by Advertiser. (b) Pre-Payment. Unless otherwise set forth in the Order Form, at least fifty percent (50%) of all payment for an order of \$20,000.00 or more must be received by Red Apple Media at least seven (7) days of the start of the campaign. If a campaign is terminated by an Advertiser within fourteen (14) days of the start of the campaign, for which payment has been made in advance, payment will be refunded, less payment for any services to be performed by the Company within fourteen (14) days of notification of termination, in accordance with Section 1 above. Payment by the Advertiser to its agency or media placement service, or payment by the agency to its media placement service, does not constitute payment to Red Apple Media. Upon any failure by Advertiser to make payment, Advertiser is responsible for all reasonable expenses (including attorneys' fees) incurred by Red Apple Media in collection of such amounts. (c) No Setoff. Advertiser shall have no right to make any deduction from, or offset, netting or setoff against, any amounts payable by it to Red Apple Media under this Agreement and all payments to Red Apple Media by the Advertiser or its agency or media placement service shall be made without any such deduction, offset, netting or setoff.

**6. PARTIES.** The Advertisers and Company may be collectively referred to herein as the "Parties," however that reference is limited to the parties to the Order Form linking to this document, and does not extend to any additional parties to an agreement with the Company for services rendered.

**7. AGENCIES.** The entity entering into the Agreement as Advertiser warrants that it is duly authorized and has the full power to bind itself and any entity on behalf of which it is acting, and agrees (a) to provide a copy of these Terms to, and verify receipt by, any entity on behalf of which it is acting and (b) to indemnify, defend and hold Red Apple Media harmless from and against any and all claims, losses, damages or costs (including reasonable attorney's fees) arising out of a breach of the foregoing warranty. Advertiser shall be solely responsible for any commission due to any agency or media placement firm. If the entity entering into the

Agreement is an agency or media placement service (“Agency”) doing so on behalf of an Advertiser, then the parties agree that the Agency will only be liable for payment for the Ads if, and to the extent, the Agency has been paid by the Advertiser and Advertiser will remain liable under the Terms and the Agreement. If the Advertiser does not pay the Agency party to the Agreement, such Agency shall provide Red Apple Media with commercially reasonable notice thereof and agrees to provide any contact information in its actual possession with respect to such Advertiser to Red Apple Media upon request.

**8. ADVERTISERS' CONTENT AND COMPLIANCE.** Advertisers shall provide all necessary advertising content, including but not limited to audio files, images, videos, and ad copy, to Red Apple Media in a timely manner. Advertisers warrant that all provided content is their own, and they possess the necessary rights, permissions, and licenses to use and distribute such content.

**9. EXCLUSIVITY.** Unless otherwise stated in the Order Form, Advertisers understand and acknowledge that Red Apple Media may enter into similar advertising agreements with other Advertisers, including competitors of the Advertisers, without any exclusivity commitments.

**10. INTELLECTUAL PROPERTY.** Advertisers retain all intellectual property rights to their advertisements. However, Advertisers grant Red Apple Media a non-exclusive, worldwide, royalty-free license to use, reproduce, modify, display, and distribute their advertisements solely for the purpose of providing the advertising services.

**11. ASSIGNABILITY.** Advertiser may not assign the Agreement without Red Apple Media's prior written consent, not to be unreasonably withheld or delayed. Red Apple Media may assign the Agreement, without notice to Advertiser, to any entity that controls, is controlled by, or is under common control with Red Apple Media or one of its affiliates, or to the purchaser of substantially all of the assets of the Red Apple Media. Red Apple Media may further assign without notice to Advertiser any accounts receivable, accounts and/or payment obligations arising under the Agreement or Terms to an affiliate of Red Apple Media as part of a financing transaction or otherwise pledge, factor, transfer or sell such accounts receivable, accounts and/or payment obligations as part of a financing transaction.

**12. ONLINE ADS.** Unless otherwise specified in the Order Form, the positioning and size of Ads is at Red Apple Media's sole discretion. Unless otherwise specified in the Order Form, Red Apple Media make no guarantees with respect to usage statistics or levels of impressions for any Ads. Red Apple Media agrees to use commercially reasonable efforts to fulfill the number of impressions agreed to the Order Form. Red Apple Media provide Advertiser with estimated usage only as a courtesy and shall not be liable for any claims relating to such usage statistics. Red Apple Media reserves the right to edit, revise, reject or cancel any Ad space reservation or position commitment at any time. Advertiser may not resell, assign or transfer any of its rights under the Agreement unless agreed upon in advance by Red Apple Media in writing. Advertiser is responsible to provide Red Apple Media with accurate traffic instructions for all Ads. For standard requests, Advertiser shall provide the Advertiser Content and traffic instructions to Red Apple Media at least three (3) business days

before the start date specified in the Order Form and, for content integration services, at least eight (8) business days before the start date specified in the Order Form (or, in either case, earlier if requested by Red Apple Media) or the Ad posting may be delayed by Red Apple Media. Advertiser agrees to monitor the Ads to ensure Red Apple Media is following the trafficking instructions Advertiser provided to Red Apple Media, and to notify Red Apple Media immediately of any errors.

**13. INTEGRATION SERVICES.** All Advertiser Content used on any Red Apple Media's web site shall comply with Red Apple Media's then-current technical direction, guidelines, practices and specifications. Any such Advertiser Content will not contain any instructions, recipes or formulas that would either directly or indirectly, if implemented, result in injury to Red Apple Media or any third party.

**14. CREATIVE SERVICES/LICENSE.** If the Agreement provides that Red Apple Media or any vendor of Red Apple Media will provide creative services (e.g., development of Ads), such services will be subject to availability of Red Apple Media creative capacity and will be provided in accordance with reasonable professional standards, but otherwise on an “as is” basis. Red Apple Media may incorporate Advertiser Content as well as content or functionality owned or arranged for by Red Apple Media in the product(s) of Red Apple Media 's creative efforts (“Works”). Advertiser Content shall continue to be owned by Advertiser and/or Advertiser's licensor(s). Red Apple Media shall retain ownership of the Works. Red Apple Media hereby grants to Advertiser a license for the term of the Agreement to display, reproduce, transmit, distribute and otherwise use the Works on and in connection with Advertiser's Ads on the applicable Red Apple Media's web sites identified in the applicable Order Form.

**15. OWNERSHIP.** Red Apple Media owns all right, title and interest (including copyright) in the Red Apple Media's web sites, subject to the rights, if any, of Red Apple Media's licensors, as well as in any advertising material or other content that is furnished by or represents the creative effort of Red Apple Media. Except as provided in connection with the license granted by Red Apple Media herein, Advertiser shall not authorize electronic, photographic or any other reproduction of any such material for use in any medium, without Red Apple Media's written consent. Red Apple Media own all user information (including without limitation any personally identifiable transactional data, "clickstream" data or demographic information) collected by Red Apple Media on or through the Red Apple Media's web sites, including Advertiser's Ads, and Advertiser shall not obtain any rights in such information by virtue of the Agreement. Advertiser shall ensure that no spyware, cookies, tracking, snooping or scripting software (e.g., Java Script) or malicious code are included with any of the Advertiser Content, nor shall Advertiser use any software to track usage or monitor an individual's usage of a web site. Red Apple Media shall have the right to audit the Advertiser's Content at any time for such software or code. Advertiser's use of any such software or code shall constitute a material breach of this Agreement. Advertiser shall not capture, share or use any personally identifiable information from any Red Apple Media's web site or from any visitors to any Red Apple Media's web sites.

**16. REPRESENTATIONS REGARDING RIGHTS.** Advertisers acknowledge and agree that Advertisers' relationship

with Red Apple Media is not a confidential, fiduciary, or other type of special relationship, and that the decision to submit any of Advertisers' intellectual property does not place Red Apple Media in a position that is any different from the position held by members of the general public, including with regard to Advertisers' intellectual property. None of Advertisers' intellectual property will be subject to any obligation of confidence on the part of Red Apple Media, and Red Apple Media will not be liable for any use or disclosure of any of Advertisers' intellectual property provided. Advertisers represent and warrant that: (i) Advertisers own the intellectual property utilized pursuant to the Agreement or otherwise have the right to grant the rights and licenses set forth in these Terms of Service; (ii) the posting and use of Advertisers' intellectual property through the advertising services does not violate, misappropriate or infringe on the rights of any third party, including, without limitation, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights; and (iii) Advertisers have the legal right and capacity to enter into these Terms of Service in Advertisers' jurisdiction.

**17. DISCLAIMER; LIMITATION OF LIABILITY.** RED APPLE MEDIA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, NONINFRINGEMENT OR TRADE USAGE. IN NO EVENT SHALL RED APPLE MEDIA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), PUNITIVE DAMAGES OR MONETARY DAMAGES OF ANY TYPE WHATSOEVER. THE AGGREGATE LIABILITY OF RED APPLE MEDIA SHALL BE LIMITED TO THE AMOUNT RECEIVED BY RED APPLE MEDIA UNDER THE AGREEMENT, OR, IF LESS, THE AMOUNT OF MONEY ASSIGNED AND ACTUALLY RECEIVED BY RED APPLE MEDIA WITH RESPECT TO THE AD(S) SUBJECT TO THE CONTROVERSY. RED APPLE MEDIA SHALL NOT BE LIABLE FOR ANY LOSS, COST, DAMAGE, OR EXPENSE (INCLUDING ATTORNEYS' FEES), INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, CAUSED BY OR ARISING OUT OF, EITHER DIRECTLY OR INDIRECTLY, ANY AD OR OTHER PRODUCT DISPLAYED ON ANY WEB SITE OR MOBILE DEVICE, THE MANNER IN WHICH ANY MATERIAL IS DISPLAYED ON OR DISTRIBUTED TO WEB SITE(S) OR MOBILE DEVICES, THE FAILURE TO DISPLAY OR DELIVER ANY AD OR OTHER PRODUCT ON THE APPLICABLE WEB SITE(S) OR MOBILE DEVICES, OR ANY TECHNICAL MALFUNCTION, COMPUTER ERROR, DELIVERY FAILURE OR LOSS OF DATA OR OTHER INJURY, ARISING, DIRECTLY OR INDIRECTLY, FROM ADVERTISER'S USE OF RED APPLE MEDIA'S SERVICES OR THE SERVICES OF ANY RED APPLE MEDIA VENDORS. SPECIFICALLY, AND WITHOUT LIMITING THE FOREGOING, RED APPLE MEDIA AND RED APPLE MEDIA VENDORS DO NOT REPRESENT OR WARRANT THAT ANY AD WILL BE DISPLAYED OR OTHERWISE TRANSMITTED WITHOUT INTERRUPTION OR ERROR.

**18. INDEMNIFICATION.** Advertisers agree to indemnify, defend, and hold harmless Red Apple Media, its officers, directors,

employees, and agents from and against any claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or in connection with Advertisers' use of the advertising services or any breach of this Agreement.

**19. FORCE MAJEURE.** Red Apple Media shall not be liable to Advertisers for the non-operation of facilities or non-performance of its obligations if such non-operation or non-performance is due to an act of God (including extreme weather and meteorological occurrences); inevitable accident; pandemic; act of government or governmental instrumentality or agency; lockout; strike; or other labor dispute; riot or civil commotion; or other cause (financial inability excepted) beyond Red Apple Media's reasonable control.

**20. CONFIDENTIALITY.** Advertisers further agree not to disclose any Confidential Information obtained by Advertisers as a result of its affiliation with Red Apple Media. For purposes of these Terms of Service, "Confidential Information" shall mean: (i) the terms of this Agreement; and (ii) any information pertaining to the Company programming, including, without limitation, research, development format and business plan information. Advertisers shall be under no obligation to keep confidential any information that: (a) was available to the public at the time of disclosure; or (b) is or becomes available to the public through no fault, unauthorized act or omission of Advertisers, provided that the obligation to hold the information in confidence shall cease only after the date on which such information has become available to the public; or (c) was provided without restriction on disclosure by a third party who had the lawful right to make such disclosure; or (d) is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure; or (e) is disclosed in response to a valid order of a court or other governmental body of the United States or any of its political subdivisions, but only to the extent of and for the purposes of such order; or (f) is made generally available to the public by Company.

**21. COMPLIANCE WITH FCPA.** Advertiser shall, and shall ensure that its subsidiaries and any directors, officers, or employees of Advertiser and its subsidiaries, any affiliates of Advertiser and its subsidiaries, and any third party agents or contractors acting on behalf of Advertiser and its subsidiaries, comply with the United States Foreign Corrupt Practices Act (including as it may be amended) (the "FCPA"), and any analogous laws or regulations concerning bribery and corruption (public and private) existing in any other country or region (collectively with the FCPA, "Anti-Corruption Laws"). Advertiser will not make any payment, either directly or indirectly, of money or any other thing of value, to any political party or any official or employee thereof, any campaign official, any candidate for political office, any official or employee of a government entity (including government-owned or -controlled businesses and institutions) or public international organization, or any other person or entity connected to any government entity or acting on behalf of any of the foregoing, that would constitute a violation of any law, rule or regulation, including any Anti-Corruption Laws.

**22. COMPLIANCE WITH OFAC.** Advertiser acknowledges that Advertiser and Red Apple Media are subject to the economic sanctions and export control laws of the United States, including the U.S. Export Administration Regulations ("EAR") and economic sanctions regulations of the U.S. Office of Foreign Assets Control ("OFAC"). Advertiser affirms that it is not, nor is it owned

or controlled by individuals or entities that are, the subject or target of U.S. sanctions or export restrictions. Advertiser agrees to comply with all relevant laws and will not export, re-export, or transfer items in contravention of U.S. or other applicable law. Advertiser agrees not to export, re-export, or transfer items to any restricted country or territory (including, as of the date of the Agreement, Crimea, Cuba, Iran, North Korea, and Syria), entity, or person for which an export license or other governmental approval is required, unless such license or authorization has been properly obtained and Red Apple Media has given prior written approval. Advertiser further agrees that it will not export, re-export, or transfer goods or services for use in connection with chemical, biological, or nuclear weapons, or missiles, drones or space launch vehicles capable of delivering such weapons. Advertiser agrees that in the event of any action, law, regulation, decision, or executive order made by the U.S. government, its officials, or its agencies, that has the effect of prohibiting, making illegal, or subjecting to penalties the actions contemplated by this Agreement, that Red Apple Media may, in its sole discretion, terminate the Agreement and any Order Form immediately without the requirement of advance notice to Advertiser. Upon any such termination by the Red Apple Media pursuant to this provision, the Red Apple Media will have no obligation to act under the Agreement or in any manner that would violate U.S. laws, regulations, decisions, or executive orders.

**23. SPONSORSHIP IDENTIFICATION.** This Section shall constitute notice to Advertiser of the foreign sponsorship disclosure requirements set forth in Section 73.1212 of the FCC's rules and regulations (the "Sponsorship Identification Rules"). Subject to any disclosures made to Red Apple Media pursuant to the following sentence, Advertiser warrants and represents that neither Advertiser nor, to the best of Advertiser's knowledge, anyone involved in the production or distribution of the Advertiser Content qualifies as a "foreign governmental entity" as defined in the Sponsorship Identification Rules. Prior to Red Apple Media's established deadlines and no less than two (2) full business days before the scheduled broadcast of the Advertiser Content, Advertiser shall furnish Red Apple Media with all information as required by any applicable laws and regulations related to sponsorship identification, including Sections 317, 507, and 508 of the Communications Act of 1934, as amended, and the Sponsorship Identification Rules.

**24. CHOICE OF LAW.** This Agreement shall be governed by and construed in accordance with the internal, substantive laws of the state of New York without reference to the rules thereof relating to conflicts of law, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

**25. DISPUTE RESOLUTION.** Any dispute arising out of or relating to the Agreement shall be resolved through good faith negotiations between the parties. If a resolution cannot be reached, the parties agree to pursue mediation or binding arbitration in accordance with the rules of the American Arbitration Association.

**26. BREACH OF AGREEMENT.** In the event of a breach of any provision of the Agreement, Red Apple Media reserves the right to pursue legal remedies, including but not limited to filing a lawsuit, seeking injunctive relief, and pursuing damages, to the fullest extent permitted by applicable laws and regulations. Such remedies shall not be exclusive and shall be in addition to any other remedies available under law or equity. Red Apple Media's

decision to enforce its rights through legal action shall not constitute a waiver of any other rights or remedies available under this Agreement or at law. The prevailing party in any such legal action shall be entitled to recover reasonable attorney's fees and court costs incurred in connection with such action.

**27. TERMINATION.** Should Advertisers fail to render timely payment for the advertising services provided, as agreed to on the Order Form, Red Apple Media reserves the right to terminate this Agreement prior to the expiration of the term as set forth on the Order Form. Termination of this Agreement based on unilateral breach of the Agreement by Advertisers will not waive or affect any other right or relief to which Red Apple Media may be entitled at law or in equity.

**28. MODIFICATION.** The terms of this Agreement may be modified at any time, including after partial performance has been completed, by written consent of the Parties.

**29. ENTIRE AGREEMENT.** This Agreement, including these Terms of Service together with the Order Form(s) executed between the Parties, constitutes the entire agreement between Red Apple Media and the Advertisers and supersedes all prior or contemporaneous agreements, understandings, and representations.

**30.** If you have any questions or comments about these Terms or the Services, please contact us by e-mail at [Legal@ragny.com](mailto:Legal@ragny.com). You also may write to Red Apple Media at:

**Red Apple Media**  
**800 Third Avenue**  
**Second Floor**  
**New York, NY 10022**  
**United States**