

**GSD&M Idea City LLC, a Delaware limited liability company**

**TERMS AND CONDITIONS**

**GSD&M Idea City LLC, a Delaware limited liability company** (along with its affiliates and related companies, “GSD&M”) maintains the GSD&M Web Sites found at <http://www.gsdm.com>, <http://www.ideacity.com>, <https://vendors.gsdm.com>, <https://ideacity.gsdm.com>, <http://www.itsnotwhatyousell.com>, <http://ideacity.posterous.com/> and other web sites and web pages as may be modified from time to time (collectively, the “Sites”). Your access to and use of the Sites is subject to these following terms and conditions (“Terms and Conditions”) and all applicable laws. By accessing and browsing the any of the Sites, you accept, without limitation or qualification, the Terms and Conditions.

You may have entered into a separate agreement with GSD&M governing your access to and use of certain functions and features of particular Sites. If so, these Terms and Conditions will still apply, but that separate agreement will control in the event of any inconsistencies with any provisions of these Terms and Conditions.

1. In order to access certain of our services and features of particular Sites, you may be required to provide information about yourself (e.g., identification; contact details) (collectively, “Registration Information”) as part of the registration process and/or as part of your continued use of the service. You agree that any Registration Information you give to us will always be accurate, complete, correct and up to date. You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Site or service. Accordingly, you agree that you will be and remain solely responsible and liable to us and all other parties, for all activities that occur under your account. If you become aware of any unauthorized use of your password or of your account, you agree to notify us immediately at [ideacity.communications@ideacity.com](mailto:ideacity.communications@ideacity.com).
2. “Content” refers to all content, data, files, software, wallpaper, music, audio, video, audio-visual, photographs or other images, text, graphics, messages, newsletters (in electronic or any other form), artwork, illustrations, images, photographs, animations, data, information, designs, service and trademarks, logos, brands and brand names, trade dress, trade names and other distinctive identification and all other proprietary information, materials and elements of our Sites, whether or not copyrightable or legally protectable, tangible and intangible, including the selection, sequence, look and feel and arrangement of components or aspects of our Sites, whether ours or third parties’.
3. Content (other than User Generated Content) is either GSD&M’s property or owned by our licensors, operational service providers, advertisers, promotional partners or other third parties, and protected under United States, State and other national or international laws, regulations and treaties. All rights not specifically granted to you are expressly reserved by GSD&M. You may not alter, modify, transform, adapt, create derivative works, perform, transfer, display or otherwise do anything with Content or use any Content for any purpose or in any manner other than your own personal use, subject to these Terms and Conditions and applicable law. You may not alter, delete or obscure any notices applicable to Content, impair or attempt to circumvent any digital rights management or other technology, nor use the Sites in violation of these Terms and Conditions or any laws, rules or regulations. You may not use any computerized or automatic mechanism to access, extract or download any Content. Without the prior written consent of GSD&M, you may not create a link to any page of this Sites in any manner reasonably likely to (i) imply affiliation with or endorsement or sponsorship by GSD&M; (ii) cause confusion, mistake, or deception; (iii) dilute GSD&M’s Trademarks (as defined herein); or (iv) otherwise violate state or federal law.
4. You may use material displayed on the Sites for non-commercial, personal use only, provided you also retain all copyright and other proprietary notices contained on any generated materials. You may not, however, distribute, modify, transmit, reuse, repost, link to or otherwise use the content of the Sites for public or commercial purposes, including the text, images, audio, and video without GSD&M’s written permission.
5. While GSD&M uses reasonable efforts to include accurate and up-to-date information in the Sites, it makes no warranties or representations as to its accuracy. GSD&M assumes no liability or responsibility for any errors or omissions in the content of the Sites.

6. GSD&M is unable to accept, watch, listen to, read, or otherwise evaluate any unsolicited advertising ideas presented for clients or for any other intention that comes to us through the Sites, e-mail, mail, or by any other means of delivery, personal or corporate. Sorry. It's for everyone's protection.
7. Your use of and browsing in the Sites are at your own risk. GSD&M, its affiliates, and subsidiaries shall have no responsibility to provide you access to the Sites. Neither GSD&M nor any other party involved in creating, producing, or delivering the Sites is liable for any direct, incidental, consequential, indirect, or punitive damages arising out of your access to, or use of, the Sites. **WITHOUT LIMITING THE FOREGOING, EVERYTHING ON THE SITES IS PROVIDED TO YOU "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. PLEASE NOTE THAT SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS OF LIABILITY, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.** Check your local laws for any restrictions or limitations regarding the exclusion of implied warranties. GSD&M also assumes no responsibility, and shall not be liable for, any damages to, or viruses that may infect, your computer equipment or other property on account of your access to, use of, or browsing in the Sites or your downloading of any materials, data, text, images, video, or audio from the Sites. **THE PROVISIONS CONTAINED IN THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**
8. You shall release, discharge, and relinquish and shall defend and shall indemnify and hold harmless GSD&M and its affiliates, subsidiaries, and vendors, and each of their members, shareholders, directors, employees, agents, representatives, and contractors of whatever tier from and against all losses, claims, demands and causes of actions of whatever kind or character, including, without limitation, costs, reasonable attorneys' fees, and expenses incurred in connection with any claim brought by any persons or entities arising from, in connection with, or relating to your access and use of the Sites, including your use of the information obtained through the Sites. **THE OBLIGATIONS TO RELEASE, TO DEFEND AND TO INDEMNIFY CONTAINED IN THIS SECTION SHALL APPLY EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE JOINT, SOLE, OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, CONTRACTUAL LIABILITIES TO THIRD PARTIES, OR OTHER FAULT, WHETHER PASSIVE OR ACTIVE, OF ANY PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO THE INDEMNITEES.**
9. Images of people or places displayed on the Sites are either the property of, or used with permission by, GSD&M. The use of these images by you, or anyone else authorized by you, is prohibited unless specifically permitted by these Terms and Conditions or specific permission provided elsewhere on the Sites. Any unauthorized use of the images may violate copyright, trademark, privacy, publicity, or communications laws, regulations, or statutes.
10. Record of your use of the Sites is the property of GSD&M and is protected by and subject to the U.S. Electronic Communications Privacy Act. The collection and use of personal information and aggregated data shall be in accordance with the GSD&M Privacy Policy also available on this site.
11. The trademarks, logos, and service marks (collectively the "Trademarks") displayed on the Sites, including but not limited to "GSD&M," "GSD&M Advertising," "GSD&M Idea City," "Purpose-based Branding" and "the Uninvited Guest" are registered and unregistered Trademarks of GSD&M and others. Nothing contained on the Sites should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademark displayed on the Sites without the written permission of GSD&M or such third party that may own the Trademarks displayed on the Sites. Your misuse of the Trademarks displayed on the Sites, or any other content on the Sites, except as provided in these Terms and Conditions, is strictly prohibited. You are also advised that GSD&M will aggressively enforce its intellectual property rights to the fullest extent of the law, including the seeking of criminal prosecution.
12. GSD&M has not reviewed all of the third party web sites linked to the Sites and shall not be held liable for any loss or damage caused, directly or indirectly by your use of any external web sites linked to the Sites, or any information, products or services available from such external sites. Your linking to any other web pages or other web sites is at your own risk.
13. "User Generated Content" refers to Content (including, without limitations, discussions, chats, bulletin board posts, comments and the like) that you post (or that is posted using your account). We do not claim ownership for (nor do we undertake responsibility for) User Generated Content. If you post User

Generated Content, you grant to us an irrevocable, perpetual, unconditional, worldwide, royalty-free, sub-licensable right and license to use, distribute, modify, adapt, transform, perform and publicly display it on or in connection with the Sites, in whole or in part, in or on any and all media now known or hereafter developed, and to create compilations, adaptations and derivative works. We have no liability or responsibility for others, even if they obtained your Content through our Sites.

14. We don't endorse User Generated Content, nor does it reflect our views. We have no obligation to monitor, edit or screen User Generated Content (although we reserve the right to do so), and if we do, we have no obligation to continue to do so and we may do so randomly, continuously or not at all and in some, any, all or no portions of the Services. We have absolutely no liability for or in connection with any User Generated Content, even if it violates our Terms or any other obligation. If we determine or reasonably believe any User Generated Content violates any terms or conditions that apply or any law or regulation or we believe you are behaving inappropriately, we reserve the right, at any time and without limiting any and all other rights we may have, to (a) refuse to allow you to post, (b) remove and delete any User Generated Content, (c) revoke, suspend and/or terminate your use, registration, User ID, subscription(s) and/or access to and use of all or any part of the Services and/or (d) use any means available to us to enforce your compliance. Although GSD&M may from time to time monitor or review User Generated Content, GSD&M is under no obligation to do so and assumes no responsibility or liability arising from User Generated Content. We reserve the right to delete, edit and/or alter your User Generated Content from the Sites from time-to-time at any time, in whole or in part, without notice to you, for any reason or no reason at all.
15. You are prohibited from posting or transmitting any false or misleading, unlawful, threatening, libelous, defamatory, disparaging, obscene, scandalous, inflammatory, pornographic, or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense, infringe upon the intellectual property or other rights of third parties, give rise to civil liability, or otherwise violate any law. GSD&M will fully cooperate with any law enforcement authorities or court order requesting or directing GSD&M to disclose the identity of anyone posting any such information or materials. You shall be solely liable for any damages resulting from any infringement of patent, copyright, trademark or other proprietary right, or any other harm resulting from your use of the Sites.
16. You represent and warrant that your User Generated Content: a) is original to you or if not original you have obtained all rights necessary from the rights holder(s) and in all cases the User Generated Content is fully cleared as described above, b) does not and will not, in any way, violate or breach any terms or conditions that apply to you or any other agreement by which you may be bound, c) does not contain libelous, tortious or unlawful information, infringe or violate any rights of any other party or contain any matter the publication, display or sale or in any other way violate any law, rule, regulation or court order, d) is not obscene or in any other manner unlawful, and e) is not and will not be injurious to the health, safety or security of any person. If your User Generated Content incorporates a name, logo, brand, service or trademark, voice, likeness or image of any person, firm or enterprise, you represent and warrant that you have the right to place such User Generated Content in the public domain.
17. The laws of the State of Texas, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction, shall govern these Terms and Conditions. To the extent allowed by applicable law, any claims or causes of action arising from or relating to your access and use of the Sites as contemplated by these Terms and Conditions must be instituted within two (2) years from the date upon which such claim or cause arose or was accrued. Further, any such claim or cause of action shall be brought exclusively in the state or federal courts located in Austin, Travis County, Texas, and you agree to submit to the exclusive personal jurisdiction of such courts and hereby appoint the Secretary of State of Texas as your agent for service of process. You agree to waive any objection that the state or federal courts of Travis County, Texas are an inconvenient forum.
18. You may not assign any of your rights, obligations, privileges, or performance hereunder without the prior written consent of GSD&M. Any assignment other than as provided for in this Section shall be null and void.
19. The materials on the Sites are provided with "RESTRICTED RIGHTS." Use, duplication or disclosure by the Government is subject to restrictions as set forth in applicable laws and regulations. Use of the materials by the Government constitutes acknowledgement of GSD&M's proprietary rights in them.
20. GSD&M may terminate or suspend your use of the Sites for any reason. Termination or cancellation of your use of the Sites shall not affect any right or relief to which GSD&M may be entitled, at law or in

equity. Upon termination of these Terms and Conditions, all rights granted to you will terminate and revert to GSD&M.

21. GSD&M may at any time revise these Terms and Conditions by updating this posting. You are bound by any such revisions and should therefore periodically visit this page to review the then-current Terms and Conditions to which you are bound.

## **1. Notice and Procedure for Making Claims of Copyright Infringement**

---

Pursuant to Title 17, United States Code, Section 512(c)(2), if you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please notify our designated agent for notice of claims of copyright or other intellectual property infringement (“Agent”).

NOTE: The following information is provided solely for notifying the service providers referenced below that your copyrighted material may have been infringed.

DO NOT SEND ANY INQUIRIES UNRELATED TO COPYRIGHT INFRINGEMENT (e.g., REQUESTS FOR ASSISTANCE, CUSTOMER SERVICE INQUIRIES, REPORTS OR E-MAIL ABUSE) TO THE AGENT LISTED BELOW.

WE CAUTION YOU THAT UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE CONTENT IS INFRINGING, YOU MAY BE SUBJECT TO HEAVY CIVIL PENALTIES. THESE INCLUDE MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS FEES INCURRED BY US, BY ANY COPYRIGHT OWNER, OR BY ANY COPYRIGHT OWNER’S LICENSEE THAT IS INJURED AS A RESULT OF OUR RELYING UPON YOUR MISREPRESENTATION. YOU MAY ALSO BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY.

Written Notification of Claimed Infringement must be submitted to the following Agent: Marty Urbanovsky, copyright@ideacity.com, 828 West 6<sup>th</sup> Street, Austin, TX, 78703.

Service Provider(s):GSD&M Idea City, LLC

Under Title 17, United States Code, Section 512(c)(3)(A), the Notification of Claimed Infringement must include the following:

- An electronic or physical signature of the owner or of the person authorized to act on behalf of the owner of the copyright interest;
- Identification of the copyrighted work (or works) that you claim has been infringed;
- A description of the material that you claim is infringing, and the location where the original or an authorized copy of the copyrighted work exists (for example, the URL of the page of the website where it is lawfully found; the name, edition and pages of a book from which an excerpt was copied, etc.);
- A clear description of where the infringing material is located on our website, including as applicable its URL, so that we can locate the material;
- Your name, address, telephone number, and e-mail address;
- A statement that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

As explained above, if we receive a notice of infringement sent to our Agent with the information described above, we will expeditiously remove or block access to the material that is claimed to be infringing. We will also send a notification to the individual who posted the material, at the email address or wireless telephone number provided by the individual in connection with his or her account with us, telling the individual that the material was removed

or access to it was blocked because of claimed infringement. If you posted material that was removed in response to a notice of infringement and you believe that material was removed due to mistake or misidentification, you should consult with your legal advisors to take advantage of the rights you may be entitled to under the law applicable to the Content involved.

Notwithstanding the foregoing, we reserve the right, but not the obligation, to restore Content that was removed if determined to have been removed erroneously or refrain from re-displaying any Content for any reason whatsoever.

WE CAUTION YOU THAT IF YOU KNOWINGLY MISREPRESENT ONLINE CONTENT IS NOT INFRINGING, YOU MAY BE SUBJECT TO CIVIL PENALTIES UNDER THE LAW. THESE INCLUDE MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS FEES INCURRED BY US, BY ANY COPYRIGHT OWNER, OR BY ANY COPYRIGHT OWNER'S LICENSEE THAT IS INJURED AS A RESULT OF OUR RELYING UPON YOUR MISREPRESENTATION. YOU MAY ALSO BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY.

## **2. Media Vendor Sequential Liability**

---

We are acting as an agent on behalf of our client, a disclosed principal, either named hereon or otherwise identified to you. We will only be liable for the cost of the goods and services purchased and other obligations to you to the extent we have been paid by our client for any amount payable to you. For amounts not paid to us by our client, you will seek payment solely from our client (and not from us). We will use commercially reasonable efforts to collect from our client all amounts due. Any terms in your invoices, documents or rate cards to the contrary, and any modifications you make to this form, are of no force or effect.

## **3. Diversity Vendor Classification**

---

If your company is minority-owned (African American, Asian American, Hispanic American or Native American), woman-owned, small business concern, small disadvantaged business concern, HUBZone small business concern, veteran-owned small business concern or service disabled veteran-owned small business concern, please register your company in our Vendor Management System database via <https://vendors.gsdm.com>.

Contact Max Rutherford at 512-242-4832 or e-mail: [max.rutherford@ideacity.com](mailto:max.rutherford@ideacity.com) if you have additional questions and/or concerns.

## **4. GSD&M Idea City Contacts**

---

Please email [vendorquestions@ideacity.com](mailto:vendorquestions@ideacity.com) if you have any questions or concerns about the information on this page.

Copyright © 1999, 2005 GSD&M Advertising. All rights reserved.