



TERMS AND CONDITIONS

1. In accordance with and subject to these terms and conditions (the "Terms"), Advertiser will cause the Data (described above) to be transferred from Advertiser's Data Source (named above, as applicable) to Company for display at <http://www.gumtree.co.za/> (the "Gumtree Site"), including the associated mobile website and through any application or websites used to access the online classifieds operated by Company, in the form of classifieds listings (the "Listings"). The Listings shall only be listed on one (1) of the Gumtree Site's regional sites. Advertiser shall be assigned a unique agent_id.
2. Advertiser shall comply with the then-current terms of use, privacy policy and other site policies applicable to the Gumtree Site, which are hereby incorporated by reference (and are available on the Gumtree Site). Where Advertiser provides the Data through a Data Source, Advertiser may also be subject to (and is responsible for complying with) the Data Source's privacy policies and information security controls. Advertiser expressly acknowledges that Company may amend the terms of use, privacy policy and other site policies applicable to the Gumtree Site at any time. Advertiser acknowledges that Advertiser's failure to comply with the foregoing, or to pay Company in accordance with these Terms, may result in the suspension of Advertiser's user account(s). Without limitation to the foregoing, Advertiser acknowledges that Company reserves the unrestricted right to: (i) not display any of the Data it receives where such Data contains a technical malfunction or for any other reason as determined by Company; and (ii) cancel, suspend or discontinue display of any Listings which violates the then-current terms of use, privacy policy or other site policies applicable to the Gumtree Site.
3. Advertiser shall pay the monthly listing fees as set forth in the Package Details (Rate Per Month). The monthly fee shall only be charged as of the date the Listings are first on-boarded to the Gumtree Site (the "Start Date"), which may take up to twenty (20) days from the Effective Date (as defined in Section 12) (the "On-boarding Period"). The parties will cooperate and use commercially reasonable efforts to ensure that the Listings are on-boarded to the Gumtree Site by the end of the On-boarding Period. Company will however not be liable for any damages suffered or incurred by Advertiser from any failure or delay in on-boarding the Listings by the end of the On-boarding Period. Advertiser also hereby agrees to purchase the features package(s) set out in the Package Details, as applicable. For greater certainty, in the event that any available Live Ad Listings go empty (or purchased features go unused) in any given calendar month, because of the actions or inactions of Advertiser, the fees payable hereunder shall nonetheless remain payable in full (and unused Live Ad Listings or features shall not carry-forward to the ensuing month). The number of "available Live Ad Listings" is the number of Listings allowed on the Gumtree Site at any given time, based on the listing package set forth in the Package Details. Advertiser may, in addition to the features package(s) set out in the Package Details (if any), purchase additional features/upgrades directly through a tool on the Gumtree Site (the "Site Tool"), at the then-current prices for such features/upgrades on the Gumtree Site, only as and when such Site Tool becomes available on the Gumtree Site.
4. Subject to Section 3, Company will issue invoices to Advertiser in respect of each month (for the monthly listing fee and, as applicable, for the cost of any features package(s) and/or features/upgrades purchased directly through the Site Tool). Only the monthly listing fee shall be prorated in the event that the Listings are on-boarded. In the event that Advertiser returns its signed Terms to Company (i) before the 15th day of a month Advertiser will be charged for the full monthly listing fee for that month; and (ii) after the 15th day of a month Advertiser will be charged 50% of the full monthly listing fee for that month. Company reserves the right to increase the monthly listed fee which increase will apply from 1 January of each year. Company will provide Advertiser with one (1) calendar month's advanced notice of the applicable increase before it is in effect.
5. Advertiser agrees to pay Company's invoices within thirty (30) days of receipt. Advertiser will be responsible for payment of any applicable sales, use and other taxes (other than taxes based on Company's income), and taxes will be added to each invoice if applicable. Unless otherwise cancelled in accordance with these Terms, Advertiser will be fully liable to pay all invoices regardless of any usage patterns and will not be entitled to any discounts or write offs. Any overdue amounts payable by Advertiser to Company will bear interest at a rate of 10.25%, compounded daily, which will be calculated from date when amounts are due to the date of actual payment, both days inclusive. Advertiser authorizes Company to investigate Advertiser's credit and financial standing in the manner permitted under applicable law, and Advertiser consents to Company sharing Advertiser's credit card and related billing and payment information with companies who work on Company's behalf for the sole purpose of conducting such credit checks.
6. If you default on your payments Company reserves the right to appoint a collection agent and/or law firm to recover such outstanding amounts from Advertiser. In such event, Company may also recover the recovery costs and/or legal fees incurred by Company.
7. Advertiser takes full responsibility for all prices associated with Listings. All prices must be correct and up-to-date and specify if there are any additional costs or taxes payable. The Advertiser will be liable for any discrepancy or error in the price, even if more than one price is concurrently displayed for a Listing.

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8. Advertiser shall provide Company with (or otherwise hereby authorizes Company to prepare in the first instance, from information and marks available on Advertiser's public websites) one (1) banner/logo size as follows (collectively, the "Advertiser Marks"), to be displayed solely in connection with the applicable Listings on the Gumtree Site, and in such placements as determined by Company in its sole discretion: logo for image overlay. Subject to these Terms, Advertiser hereby grants to Company a non-exclusive, royalty-free, non-transferable and non-assignable license to use the Advertiser Marks as may be necessary to perform its obligations set forth herein. As between the parties, title to and ownership of the Advertiser Marks will remain with Advertiser, and any benefits accruing from use of such Advertiser Marks will automatically vest in Advertiser.
9. Company reserves the right to promote any Listings in accordance with its applicable policy which is hereby incorporated by reference and available on the Gumtree Site.
10. Advertiser hereby represents, warrants and covenants throughout the duration of the Insertion Order that: (i) it has all necessary corporate power, authority and capacity to execute, deliver and perform its obligations, and its entering into of the Insertion Order and/or its performance under the Insertion Order will not violate terms of any other agreement that it has with a third party; (ii) it will comply with any laws, regulations and directives applicable to it, including (without limitation) employment and labour laws and regulations; (iii) it is the owner of, or has permission to use and sublicense the use of, the Advertiser Marks; (iv) it has secured (including through the entering into of any necessary syndication agreement with the Data Source) all rights necessary to cause the transfer of the Data, and to cause related Listings to be listed on the Gumtree Site; (v) no intellectual property rights belonging to a third party will be infringed by Company exercising its rights and performing its obligations under the Insertion Order in relation to using the Data; (vi) it will use commercially reasonable efforts to ensure that the Data is accurate in all material respects; and (viii) it will ensure, verify and monitor that all prices associated with its Listings are true and correct. Advertiser will indemnify and hold harmless Company, its affiliates and their respective officers, directors and employees against any and all claims, losses, liabilities, costs and expenses, which any of them may incur as a result of any third party actions arising from or relating to breach by Advertiser of any of the foregoing.
11. Company may re-format the Data to be presentable for display as Listings, and may otherwise decode the Data and make such changes thereto as may be necessary to conform and adapt the Data to the technical requirements of the Gumtree Site, connecting networks, devices, services or media; provided however that the Data shall not be edited or altered by Company in a manner that misleads or distorts the original content.
12. The initial term of the Insertion Order shall commence on the date that Advertiser enters into the Insertion Order (the "Effective Date") and continue until the first anniversary of the Start Date, and (except in the case of time-limited products) shall thereafter automatically renew for successive monthly periods, unless either party terminates the Insertion Order early in accordance with these Terms.
13. The Company reserves the right to terminate this Insertion Order at their discretion. The Advertiser may terminate this Insertion Order by providing one calendar month's advanced written notice to the Company in accordance with the cancellation process set out in Section 14. In the event that the Advertiser has opted to select a 12 month contract option the Advertiser may terminate this Insertion Order by providing 20 business days advanced notice in accordance with cancellation process set out in Section 14, the difference between the discounted amount and the applicable rate card rate per branch will be payable by the Advertiser. Either party may immediately terminate the Insertion Order in the event (i) of a breach of the Insertion Order by the other party if the party in breach fails to remedy same within 10 days of having been notified by the party alleging such failure; or (ii) that no Listings have been on-boarded to the Gumtree Site by the end of the On-boarding Period. In addition, Company may immediately terminate the Insertion Order if (i) any agreement it may have with the Data Source or 12 month contract period is terminated or expires; (ii) Advertiser commits any act or does anything that is or shall be an offense which brings or may bring Company into public disrepute, contempt, scandal, or ridicule, or which might reasonably tend to injure the reputation of Company; or (iii) Company has reasonable evidence to believe that Advertiser's credit is or becomes impaired. No termination of the Insertion Order shall affect the rights or obligations of either Advertiser or Company with respect to provisions hereof that, by their sense and context, are intended to survive such termination. Contracts are calendar month-to-month, except in the instance where a 12-month package was selected.
14. IN ORDER TO CANCEL THIS INSERTION ORDER, ADVERTISER MUST SUBMIT A COMPLETED CANCELLATION FORM INITIATED WITH AN EMAIL TO CANCELGAIT@PROTOOL-SUPPORT.COM (FOR A GAIT ADVERTISER) OR CANCEL@PROTOOL-SUPPORT.COM (FOR A PROTOOL ADVERTISER). NO OTHER FORM OR METHOD OF CANCELLATION WILL BE VALID. Receipt of this form by the Company will trigger the applicable notice period. The Advertiser may withdraw the cancellation during the notice period should they so wish.
15. Except as otherwise set forth in the Insertion Order (including these Terms), each party will bear its own costs and expenses related to the Insertion Order.

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16. Company chooses the following address as its domicilia citandi et executandi for purposes of giving any legal notice and serving any legal process (i) physical address: Regus, Century City, The Colosseum First Floor, Century Way, Cape Town, 7441 (ii) email address: cancelgait@protool-support.com (For a GAIT Advertiser) OR cancel@protool-support.com (For a ProTool Advertiser). NOTWITHSTANDING THE AFOREGOING, COMPANY CHOOSES THE EMAIL ADDRESS CANCELGAIT@PROTOOL-SUPPORT.COM (FOR A GAIT ADVERTISER) OR CANCEL@PROTOOL-SUPPORT.COM (FOR A PROTOOL ADVERTISER) AS ITS DOMICILIA CITANDI ET EXECUTANDI IN RESPECT OF CANCELLATION OF A INSERTION ORDER. Any notice addressed to Company at its physical address shall be sent by prepaid registered post or delivered by hand. Any notice shall be deemed to have been received if posted by prepaid registered post, 7 days after the date of posting thereof, if hand delivered, on the day of delivery and if sent by email, on the first business day after the date of transmission.
17. Advertiser acknowledges that the Gumtree Site is provided "As Is" and "When Available", and Company does not represent or warrant that the Gumtree Site will operate securely or without interruption.
18. The execution of the Insertion Order has not been induced by, nor do any of the parties rely upon or regard as material, any representations or writings whatsoever not incorporated herein and made a part of the Insertion Order.
19. Company may from time to time, as set forth in this Section, amend the Insertion Order (including, without limitation, these Terms and the applicable fees). Only the Gumtree Country Manager, Head of Gumtree Jobs, Goods & Property or a member of the Company legal department, on behalf of Company, shall notify Advertiser of any amended terms via email and, except where stated otherwise herein, all amended terms will be effective thirty (30) days after they are emailed to Advertiser (it being acknowledged and agreed that Company is not required to notify Advertiser of any amendment(s) to the terms of use, privacy policy or other site policies applicable to the Gumtree Site, and Section 1 will at all times apply to Advertiser). IF ANY AMENDMENT IS UNACCEPTABLE TO ADVERTISER, ADVERTISER'S ONLY RECOURSE IS TO TERMINATE THE INSERTION ORDER BY SENDING A TERMINATION NOTICE TO COMPANY PRIOR TO THE EFFECTIVE DATE OF THE AMENDMENT(S). ADVERTISER'S CONTINUED TRANSFER OF THE DATA TO COMPANY AFTER THE DATE ON WHICH AMENDMENTS BECOME EFFECTIVE WILL CONSTITUTE ADVERTISER'S ACCEPTANCE OF SUCH AMENDMENTS. FOR GREATER CERTAINTY, EXCEPT AS EXPRESSLY SET OUT IN THIS SECTION, THE INSERTION ORDER MAY NOT BE MODIFIED BY ANY SALES REPRESENTATIVE, AGENT, EMPLOYEE OR CONTRACTOR OF COMPANY, OR THROUGH COURSE OF DEALING OR OTHERWISE.
20. Company may, at any time and at its option, assign or transfer the Insertion Order to any of its affiliates, or sub-contract to an affiliate any or all of its obligations under the Insertion Order, without prior consent from Advertiser.
21. These Terms shall be construed and interpreted in accordance with the laws of the Republic of South Africa. Each of the parties hereby irrevocably agrees to the exclusive jurisdiction of the courts of the Republic South Africa with respect to any matters arising out of the Insertion Order.
22. Advertiser will not, without Company's prior written consent, make any press release or general public announcement with respect to the nature and terms of the Insertion Order.
23. Should Advertisers opt for the unlimited package, Gumtree reserves the right, at its sole discretion, to cap the number of listings that the client may publish at any given time.

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