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11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 FREE RANGE CONTENT, INC., a California
corporation, on behalf of itself and all others
16 similarly situated,

17 Plaintiff,

18 v.

19 GOOGLE INC., a Delaware corporation,

20 Defendant.

No.

CLASS ACTION COMPLAINT

COMPLAINT FOR BREACH OF
CONTRACT, BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH AND FAIR
DEALING, UNJUST ENRICHMENT,
VIOLATION OF CALIFORNIA UNFAIR
COMPETITION LAW, AND FOR RELIEF
PURSUANT TO THE CALIFORNIA
DECLARATORY JUDGMENT ACT AND
THE FEDERAL DECLARATORY
JUDGMENT ACT

**DEMAND FOR JURY TRIAL OF ANY
ISSUES SO TRIABLE**

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1 For its complaint against the defendant, plaintiff, on its own behalf and on behalf of all
2 others similarly situated, alleges as follows:

3 **I. INTRODUCTION**

4 1. Google Inc. (“Google”) owns and operates the AdSense advertising program. By
5 way of this program, Google induces website operators to host advertisements on their websites in
6 exchange for the promise that Google will pay these website operators a share of the fees that
7 advertisers pay it. Under the terms of Google’s contracts with the operators of these hosting
8 websites, program participants earn money when visitors to their websites view or interact with the
9 ads that Google has placed there.

10 2. The AdSense program is enormously popular. This popularity translates annually to
11 billions of dollars payable to AdSense publishers – Google’s parlance for website operators that
12 host its ads. But as the plaintiff and many other publishers have found, Google often shuts down
13 AdSense accounts shortly before a periodic payment is due and then denies the publisher the
14 entirety of the expected payment, notwithstanding all the ads the publisher already has served to
15 visitors to its website during the payment period.

16 3. This practice has sparked numerous bitter complaints detailed at various places on
17 the web. For example, one self-described AdSense publisher stated the following: “It’s common
18 knowledge among SEOs that AdSense tends to be disabled a few days before the supposed payout.
19 I haven't lost any big sum – only \$2000 but I know one person that lost \$40,000. It was all
20 legitimate traffic coming straight from Google themselves, no click fraud no bought traffic etc. PS:
21 I was using AdSense from 2008 to 2013 – over 5 years so it’s not like only new users got banned.”¹

22 4. It is Google’s wrongful refusal to pay terminated AdSense publishers the monies
23 they have earned and are owed that is the subject of this lawsuit. Google’s actions constitute
24 breach of contract, breach of the implied covenant of good faith and fair dealing, unjust
25 enrichment, and violation of the California Unfair Competition Law.

26
27
28 ¹ <https://news.ycombinator.com/item?id=7672910> (last accessed May 7, 2014).

Northern District of California. Furthermore, Google's AdSense contract specifies that claims such as these will be "litigated exclusively in the federal or state courts of Santa Clara County, California, USA" (*See, e.g.*, <https://www.google.com/adsense/localized-terms?rc=US&ce=1> (last accessed May 7, 2014).)

III. PARTIES

10. Plaintiff Free Range Content, Inc. ("Free Range Content") is a California corporation that owns and operates Repost.us, a website where it formerly hosted ads for Google advertisers under Google's AdSense program.

11. Defendant Google is a Delaware corporation with its headquarters and principal place of business in Mountain View, California. Google is America's leader in Internet advertising. It was number 55 on last year's U.S. Fortune 500, with 2013 revenues of \$55.2 billion and profits of \$10.737 billion.

IV. RELEVANT FACTS

A. Google's AdSense Program

12. Google's AdSense program affords Google, *inter alia*, the ability to sell to advertisers web ads that will appear on various non-Google websites. (*See, e.g.*, https://www.google.com/adsense/www/en_US/tour/index.html (last accessed May 7, 2014).)

13. Google contracts with operators of these websites to publish these ads in exchange for a percentage of the sums paid by advertisers to place and run the ads. Thus, Google promises to pay publishers when visitors to the publishers' web properties view, click on, or otherwise interact with these ads. (*See, e.g., id.; see also* Exs. A (true and correct copy of the current AdSense Online Terms and Conditions, retrieved on May 20, 2014 from <https://www.google.com/adsense/localized-terms?rc=US&ce=1>), ¶ 5 (promise to pay)²; B (true and correct copy of the AdSense Online Standard Terms and Conditions for the early July 2012 timeframe, when plaintiff became an AdSense program participant, retrieved on May 20, 2014

² "Subject to this Section 5 and Section 10 of these AdSense Terms, you will receive a payment related to the number of valid clicks on Ads displayed on your Properties, the number of valid impressions of Ads displayed on your Properties, or other valid events performed in connection with the display of Ads on your Properties, in each case as determined by Google." (*Id.*)

1 from the Internet Archive via the Wayback Machine
 2 (<https://web.archive.org/web/20120706155053/https://www.google.com/adsense/localized-terms>)),
 3 ¶ 11 (promise to pay)³; and C (true and correct copy of the AdSense Online Terms of Service then
 4 current when plaintiff's AdSense account was disabled on or about March 1, 2014, retrieved on
 5 May 20, 2014 from the Internet Archive via the Wayback Machine
 6 (<https://web.archive.org/web/20140220205332/https://www.google.com/adsense/localized-terms>)),
 7 ¶ 5 (promise to pay)⁴.)

8 14. Google contracts with AdSense publishers consist of non-negotiable, adhesive terms
 9 of participation. (*See generally* Exs. A, B, and C.) These contracts link to other non-negotiated
 10 Google documents containing other adhesive terms.

11 15. Among these terms are provisions purportedly allowing Google to disable, *i.e.*,
 12 terminate, publisher AdSense accounts for various reasons, at Google's discretion. (*See, e.g.*,
 13 Ex. A, ¶ 10; Ex. B, ¶¶ 6; Ex. C, ¶ 10.)

14 16. Also among these terms are provisions purportedly allowing Google not to pay
 15 publishers for monies due them on their AdSense accounts upon Google's disabling of those
 16 accounts. (*See, e.g.*, Ex. A, ¶¶ 5 ("Payments will be calculated solely based on our accounting.
 17 Payments to you may be withheld to reflect or adjusted to exclude any amounts refunded or
 18 credited to advertisers and any amounts arising from invalid activity, as determined by Google in
 19 its sole discretion. . . ."), 10; Ex. B, ¶ 11 ("Google reserves the right to withhold payment or charge
 20 back Your account due to any of the foregoing or any breach of this Agreement by You, pending
 21 Google's reasonable investigation of any of the foregoing or any breach of this Agreement by
 22 You"); Ex. C, ¶¶ 5 ("Payments will be calculated solely based on our accounting. Payments

23 ³ "You shall receive a payment related to the number of valid clicks on Ads, the number of
 24 valid impressions of Ads, the number of valid completions of Referral Events initiated through
 25 Referral Buttons displayed in connection with your Property(ies), and/or other events performed in
 26 connection with the display of Ads on Your Property(ies), in each case as determined by Google
 for participants in the Program." (*Id.*)

27 ⁴ "Subject to this Section 5 and Section 10 of these AdSense Terms, you will receive a payment
 28 related to the number of valid clicks on Ads displayed on your Properties, the number of valid
 impressions of Ads displayed on your Properties, or other valid events performed in connection
 with the display of Ads on your Properties, in each case as determined by Google." (*Id.*)

1 to you may be withheld to reflect or adjusted to exclude any amounts refunded or credited to
2 advertisers and any amounts arising from invalid activity, as determined by Google in its sole
3 discretion . . .”), 10.)

4 17. Google, by its own tally, has disabled a massive number of publisher accounts. For
5 example, in a January 17, 2014 post entitled “Inside AdWords, Google’s official blog for news tips
6 and information on AdWords” – a publication directed to the advertiser side of Google’s
7 advertising ecosystem – Google states that “by the end of 2013” it had “[r]emoved more than
8 250,000 ad-funded publishers’ accounts for various policy reasons.”
9 (<http://adwords.blogspot.com/2014/01/busting-bad-advertising-practices-2013.html?m=1> (last
10 accessed May 7, 2014).) Given Google’s contractual terms purportedly permitting it to withhold
11 payment to publishers with disabled accounts, and in light of the experience of the plaintiff in
12 seeing this policy actually effected, the total of earned funds that Google has refused to pay its
13 AdSense publishers could be enormous.

14 **B. Plaintiff’s and Proposed Class Members’ Bitter Experiences with Google’s AdSense**
15 **Program**

16 **Plaintiff Free Range Content**

17 18. Google has withheld monies due plaintiff Free Range Content under its AdSense
18 program.

19 19. Plaintiff owns the Repost content syndication service and the website Repost.us. In
20 or about July 2012, plaintiff became an AdSense publisher for pages served on various websites
21 under its Repost.us brand.

22 20. All went well until February 2014, when estimated earnings for ads by the plaintiff,
23 as reported by Google, began to increase at a previously unseen rate. Plaintiff was took note of this
24 earnings spike and self-reported it to Google, asking for help to ascertain why it was happening and
25 also seeking aid to correct it as needed. Additionally, plaintiff attempted to identify the reason for
26 the spike on its own.
27
28

1 21. Shortly after the plaintiff reached out to Google, it received a note asking it to set up
2 an appointment to speak with a representative from the AdSense team. Plaintiff did as requested,
3 scheduling a call for March 6, 2014.

4 22. At the end of February 2014, Google issued a report stating that plaintiff's estimated
5 earnings for the covered period were over \$40,000. To the plaintiff, it seemed unlikely, based on
6 its history with the program, that the number was correct; it seemed far too high. But certainly the
7 plaintiff was due some substantial portion of those estimated earnings, amounting to several
8 thousands of dollars — perhaps in the \$8,000 to \$11,000 range — for AdSense ads it had dutifully
9 served during that final period before Google disabled its account. Indeed, Google's own estimate
10 of plaintiff's payable earnings, issued at or around the beginning of March 2014, put the number
11 for the covered period at over \$11,000.

12 23. Then on March 4, 2014 — two days before the March 6, 2014 call with the AdSense
13 representative was to occur — plaintiff received word from the AdSense program that Google had
14 disabled its account. Google offered no explanation, other than a reference to its supposed
15 detection of "invalid activity in [plaintiff's] AdSense account." As Google put it: "We're limited
16 in the amount of information we can provide about your specific violation. We understand this can
17 be frustrating for you, but we've taken precautionary measures because intentional violators can
18 use this information to circumvent our detection systems."

19 24. Plaintiff was shocked to hear of its account termination, given that it had itself
20 alerted Google to a potential problem with its account and sought in good faith to identify and
21 correct whatever problem there actually might be. It promptly filed in writing the appeal
22 referenced in the termination notice. By way of this appeal, plaintiff sought not only reinstatement
23 of its account but the earnings owed it and withheld by Google.

24 25. Also, plaintiff's telephone conference with the Google AdSense representative took
25 place as planned on March 6, 2014. During this call, the AdSense representative sounded
26 sympathetic but made it plain that he had no control over the matter. The representative also
27 indicated that plaintiff would be paid its earnings for the last payment period only if Google
28

1 granted its appeal. Shortly thereafter, plaintiff received a terse letter from Google, dated March 7,
2 2014, rejecting its appeal.

3 26. Now, having disabled plaintiff's AdSense account, Google refused to pay plaintiff
4 *any* of the sums it owed plaintiff for having served many thousands of AdSense ads on
5 Repost.com-branded webpages during the last pay period. Google made no attempt to limit what it
6 withheld, whether based on an assessment of the time-scope of the apparent problem with
7 plaintiff's AdSense account, the number of pages and ads that may have been affected, or
8 otherwise — Google simply withheld *all* of plaintiff's earnings for the last payment period.

9 **Other Publishers, Similar Experiences**

10 27. Google's wrongful refusal to pay publishers terminated from the AdSense program
11 *any* of the sums owed to them for serving ads since the last program payment has spawned a
12 plethora of bitter complaints detailed at various places on the web. For example, one self-
13 described AdSense publisher stated the following: "It's common knowledge among SEOs that
14 AdSense tends to be disabled a few days before the supposed payout. I haven't lost any big sum –
15 only \$2000 but I know one person that lost \$40,000. It was all legitimate traffic coming straight
16 from Google themselves, no click fraud no bought traffic etc. PS: I was using AdSense from 2008
17 to 2013 – over 5 years so it's not like only new users got banned."
18 (<https://news.ycombinator.com/item?id=7672910> (last accessed May 7, 2014.)) Another reported in
19 part as follows:

20 Oh joy, I just got this dreaded email this morning. I've spent since December
21 creating 85 niche sites and generated around \$400 so far, none of which I'm going to
22 receive now because my account is disabled.

23 I'm just starting to go through my sites and try to figure out WHY and here are a
24 couple of things I have noticed so far.

25 On my latest batch of 11 sites I forgot to disable adsense on the privacy policy and
26 contact page (i only activated adsense on these sites 24 hours ago so they are my
27 prime suspects)

28 On some of my earliest sites I only made the contact page available via the privacy
policy page, so I'll need to improve the navigation on those sites.

1 Apart from that, I honestly can't see why my entire account was killed. I was
 2 receiving normal amounts of clicks based on the traffic I was getting so I don't think
 3 I had invalid click activity. . . .

4 (<http://empireflippers.com/adsense-account-disabled/> (last accessed May 8, 2014).) Numerous
 5 similar reports abound.

6 **C. Reports from an Anonymous, Self-Described Former Employee of Google Regarding**
 7 **Google's Alleged Practice of Wrongfully Withholding Payment from AdSense**
 8 **Publishers**

9 28. On April 29, 2014, an anonymous, self-described "former Google employee" took
 10 to the web to "leak information to the public of what [he or she] witnessed and took part in while
 11 being an employee." (<http://pastebin.com/qh6Tta3h> (last accessed May 7, 2014).) The individual
 12 wrote that "[his or her] position was to deal with AdSense accounts, more specifically the accounts
 13 of publishers (not advertisers)." (*Id.*) The individual indicates that he or she is keeping his or her
 14 identity a secret for now, and he or she did not reveal the subject information sooner, because of
 15 "[h]aving signed many documents such as NDA's and non-competes," and out of fear of "many
 16 repercussions . . . , especially in the form of legal retribution from Google." (*Id.*)

17 29. The individual goes on to describe an alleged first-quarter 2009 Google AdSense
 18 division meeting in which "division higher ups" participated. (*Id.*) In this "very long meeting,"
 19 according to this individual, there was discussion to the effect that "Google had suffered some very
 20 serious losses in the financial department several months earlier." (*Id.*) The upshot was that
 21 Google was going to "carry out extreme quality control on AdSense publishers." (*Id.*) This was
 22 said to mean that "AdSense itself hands out too many checks each month to publishers, and that the
 23 checks were too large and that needed to end right away." (*Id.*) Other "smaller meetings"
 24 reportedly followed, and "the word was," according to this individual, that "they [Google] were
 25 planning to cut off a large portion of publisher's payments." (*Id.*)

26 30. Purportedly, "the first big batch of bans happened in March of 2009. The main
 27 reason, the publishers made too much money. But something quite devious happened." (*Id.*)
 28 According to this individual, "[w]e were told to begin banning accounts that were close to their
 payout period (which is why account bans never occur immediately after a payout). The purpose

1 was to get that money owed to publishers back to Google AdSense, while already having served up
2 the ads to the public.” (*Id.*)

3 31. According to this individual, “[f]rom 2009 to 2012 there were many more big
4 batches of bans. The biggest of all banning sessions occurred in April 2012. The AdSense
5 division had enormous pressure from the company to make up for financial losses, and for
6 Google’s lack of reaching certain internal financial goals for the quarter prior.” (*Id.*) Purportedly,
7 Google AdSense employees “were threatened with job losses if we didn’t enforce the company’s
8 wishes.” (*Id.*)

9 32. After “[s]everal publishers [reportedly] launched legal actions which were settled,”
10 Google, according to this individual, “came up with a new policy.” (*Id.*) This policy purportedly
11 was “officially called AdSense Quality Control Color codes (commonly called AQ3C by
12 employees).” (*Id.*) According to this individual, “[t]hose publisher’s [sic] that could do the most
13 damage by having their account banned were placed in a VIP group that was to be left alone. The
14 rest of the publishers would be placed into other groupings accordingly.” (*Id.*) He or she also
15 states that “[t]he new AQ3C also implemented ‘quality control’ quotas for the account auditors, so
16 if you didn’t meet the ‘quality control’ target (aka account bans) you would be called in for a
17 performance review.” (*Id.*)

18 33. The author of the post goes on to describe four groups, segregated by color,
19 requiring various levels of attention from AdSense employees. These purportedly ranged from
20 urgent (red) to VIP (green), the latter of which he or she describes as the “‘untouchables.’” (*Id.*)
21 AdSense publishers in these four groups purportedly were subject to differing degrees of scrutiny,
22 with publishers placed in the three non-green groups being subject to “ban[is]” for various
23 “reason[s],” (*id.*) All bans were to “occur as close to a payout period as possible with the most
24 amount of money accrued,” according to the anonymous poster. (*Id.*)

25 34. The individual goes on to write of a purported scheme whereby Google also used
26 skewed “Google Analytics” data to bilk publishers out of some or all of the money owed them.
27 (*See id.*)
28

35. Google has denied these allegations made by the anonymous poster. (*E.g.*, <http://www.zdnet.com/adsense-leak-controversy-heats-up-as-google-denies-favoritism-theft-allegations-7000028913/> (last accessed May 7, 2014).)

36. An individual purporting to be the same anonymous poster has replied to Google's denial. (<http://pastebin.com/DXTu8Mcm> (last accessed May 20, 2014).) This individual purports to take back nothing from the previous post and claims to "have communications, ... files, ... lists, ... [and] names." (*Id.*) The individual indicates that he or she will release "it [his or her information and material] to the legal representatives of the class action lawsuit against Google in regards to AdSense," if such an action is brought. (*Id.*)

37. True and correct copies of the original April 29, 2014 post, and the second referenced post, dated April 30, 2014, are attached as Exhibits D and E, respectively.

38. As of the date of this complaint, plaintiff cannot confirm the veracity of the allegations made by the individual or individuals in these two posts. If true, the posts could help to illuminate why Google took such harsh and unfair action against the plaintiff, notwithstanding its good faith efforts to comply with Google's policies. They also could help to explain why so many publishers have complained of similar actions on the part of Google. But in any event, if the information in the referenced two posts does not prove to be true either in whole or part, Google nonetheless has behaved unlawfully in refusing to pay publishers, including the plaintiff, sums earned by them for serving AdSense ads in the period prior to Google's disabling of those publishers' accounts.

V. CLASS ALLEGATIONS

39. Plaintiff brings this action under Fed. R. Civ. P. 23(b)(1), (2), and (3).

40. Plaintiff brings this action on behalf of itself and the following class, for damages, declaratory, and injunctive relief:

All U.S. Google AdSense publishers whose AdSense account was disabled or terminated, and whose last earned AdSense program payment was withheld in its entirety, and permanently, by Google.

Excluded from this proposed class is the defendant; defendant's affiliates and subsidiaries; defendant's current or former employees, officers, directors, agents, and representatives; and the

1 district judge or magistrate judge to whom this case is assigned, as well as those judges' immediate
2 family members. Plaintiff will seek to amend this proposed class as necessary, or to add a class or
3 classes as necessary, in order to obtain all the relief sought by way of this complaint.

4 41. **Numerosity:** The exact number of the members of the proposed class is unknown
5 and is not available to the plaintiff at this time, but, upon information and belief, the class will
6 consist of many tens or even hundreds of thousands of members, such that individual joinder in this
7 case is impracticable.

8 42. **Commonality:** Numerous questions of law and fact are common to the claims of
9 the plaintiff and members of the proposed class. These include, but are not limited to:

10 a. Whether Google withholds earned funds from publishers whose accounts it
11 disables or terminates, purportedly under terms of its AdSense contracts with those publishers;

12 b. Whether terms of Google's AdSense contracts purportedly giving Google
13 the right to withhold earned funds from website publishers participating in its AdSense program are
14 unconscionable and unenforceable;

15 c. Whether the terms of Google's AdSense contracts purportedly giving
16 Google the right to withhold earned funds from website publishers participating in its AdSense
17 program are actually liquidated damages terms that set forth penalties in violation of California law
18 on liquidated damages, such that they are unenforceable;

19 d. Whether Google has breached its AdSense contracts with publishers by
20 refusing to pay them monies earned for serving ads on their websites;

21 e. Whether Google has breached the implied covenant of good faith and fair
22 dealing in administering its AdSense contracts in and following termination actions with its
23 AdSense publishers;

24 f. Whether plaintiff and members of the proposed class are entitled to
25 declaratory relief with respect to the illegality of the terms of Google's AdSense contracts insofar
26 as they purport to allow Google to withhold monies earned from AdSense program publishers, and
27 injunctive relief in order to halt that unlawful practice, and whether plaintiff and the proposed class
28 are entitled to their attorneys' fees, costs, and expenses for securing such relief;

1 g. Whether plaintiff and members of the proposed class are entitled to any
2 damages or restitution, including payments of AdSense program payments wrongfully withheld
3 from them by Google, and to their attorneys' fees, costs, and expenses related to any recovery of
4 such monetary relief; and

5 h. Whether plaintiff and members of the proposed class are entitled to any
6 damages or restitution incidental to the declaratory or injunctive relief they seek, and to their
7 attorneys' fees, costs, and expenses related to any recovery of such monetary relief.

8 43. **Typicality:** Plaintiff's claims are typical of the claims of the members of the
9 proposed class. The factual and legal bases of Google's liability are the same and resulted in injury
10 to plaintiff and all of the other members of the proposed class.

11 44. **Adequate representation:** Plaintiff will represent and protect the interests of the
12 proposed class both fairly and adequately. Plaintiff has retained counsel competent and
13 experienced in complex class-action litigation. Plaintiff has no interests that are antagonistic to
14 those of the proposed class, and its interests do not conflict with the interests of the proposed class
15 members it seeks to represent.

16 45. **Prevention of inconsistent or varying adjudications:** If prosecution of a myriad
17 of individual actions for the conduct complained of were undertaken, there likely would be
18 inconsistent or varying results. This would have the effect of establishing incompatible standards
19 of conduct for the defendant. Certification of plaintiff's proposed class would prevent these
20 undesirable outcomes.

21 46. **Injunctive and declaratory relief:** By way of its conduct described in this
22 complaint, the defendant has acted on grounds that apply generally to the proposed class.
23 Furthermore, the defendant purports to apply common contractual terms in effecting the actions
24 complained of with respect to members of the proposed class. Accordingly, the injunctive and
25 declaratory relief requested are appropriate respecting the class as a whole.

26 47. **Predominance and superiority:** This proposed class action is appropriate for
27 certification. Class proceedings on these facts and this law are superior to all other available
28 methods for the fair and efficient adjudication of this controversy, given that joinder of all

members is impracticable. Even if members of the proposed class could sustain individual litigation, that course would not be preferable to a class action because individual litigation would increase the delay and expense to the parties due to the complex factual and legal controversies present in this matter. Here, the class action device will present far fewer management difficulties, and it will provide the benefit of a single adjudication, economies of scale, and comprehensive supervision by this Court. Further, uniformity of decisions will be ensured.

VI. CLAIMS FOR RELIEF

APPLICATION OF CALIFORNIA LAW

48. Plaintiff's state-law claims in this matter, and those of the proposed class, are governed by California law per the terms of Google's AdSense contracts. (Ex. A, ¶ 14; Ex. B, ¶ 17; Ex. C, ¶ 14.)

FIRST CAUSE OF ACTION

BREACH OF CONTRACT

49. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

50. Plaintiff and members of the proposed class entered into contracts with Google regarding their participation in Google's AdSense program. (*See* Exs. A, B, and C.)

51. These AdSense contracts contain terms promising that Google will pay publishers for, *inter alia*, serving ads on their websites sold by Google to various advertisers. (Ex. A, ¶ 5; Ex. B, ¶ 11; Ex. C, ¶ 5.)

52. Plaintiff and publisher-members of the proposed class have performed under the AdSense contract by, *inter alia*, serving the subject ads on their websites. But in turn, Google, purportedly relying on other terms of the contracts, refuses to pay these publishers funds already owed them upon its disabling of their accounts.

53. The contractual terms purporting to permit Google to withhold payment of funds owed to publishers whose accounts it disables, *see* Ex. A, ¶¶ 5, 10, Ex. B, ¶ 11, and Ex. C, ¶¶ 5, 10, which Google reads and applies as permitting it to withhold such funds in their entirety, are unconscionable. Accordingly, they are unenforceable. *See* CAL. CIV. CODE § 1670.5(a). These

1 oppressive terms appear in contracts of adhesion that were foisted upon small businesses and
2 individuals with no bargaining power by a giant and powerful corporation, Google, that drafted
3 them and presented them as a take-it-or-leave-it proposition. There was no negotiation, and there
4 was an absence of meaningful choice. Furthermore, these terms are so one-sided as to shock the
5 conscience; they are harsh and oppressive in that they purport, according to Google itself, to give it
6 the right to withhold upon disabling of a publisher's AdSense account *all* unpaid sums already
7 earned by the publisher for having served AdSense advertisements on its website(s) in the period
8 prior to account termination, however limited in scope or time the supposed offense or policy
9 violation might have been. As such, these terms are unconscionable and, therefore, unenforceable.
10 *See id.*

11 54. Furthermore, these terms constitute invalid provisions for liquidated damages. CAL.
12 CIV. CODE § 1671(b). Under California law governing liquidated damages provisions, the terms in
13 question constitute penalties in that the sums Google can purportedly withhold from publishers,
14 *i.e., all* sums earned by them for serving AdSense ads in the period prior to termination of their
15 accounts, bear no reasonable relationship to any actual damages or injury that Google might have
16 suffered from the supposed breach of the AdSense contracts by publishers. No matter how limited
17 the supposed offense, Google can (and does) refuse to pay all the funds owed, notwithstanding all
18 the performance on the part of the publisher in the payment period prior to Google's disabling of
19 its account. Thus, these terms were unreasonable under the circumstances existing at the time the
20 contract was made, rendering them invalid and unenforceable. *See id.*

21 55. With these payment-withholding terms stricken from the contracts as unenforceable,
22 Google's liability to plaintiff and the proposed class for breach of contract is stark.

23 56. Plaintiff and members of the proposed class have been damaged by Google's breach
24 of contract in the amount of sums owed to them but not paid when their AdSense accounts were
25 disabled, together with pre-judgment interest.

SECOND CAUSE OF ACTION**BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

57. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

58. There exists in every contract, including Google's AdSense agreements with the plaintiff and members of the proposed class, an implied covenant of good faith and fair dealing.

59. Google violated this covenant by terminating the plaintiff's AdSense agreement for purported violations of its policies, even though the plaintiff endeavored at all times to comply with Google's policies and itself brought potential issues to Google's attention so that it could resolve them to Google's satisfaction. Next, Google compounded its violation of the covenant by withholding *all* sums payable to the plaintiff for ads already served on its website during the period prior to its account being disabled. Google made no effort whatsoever to limit the funds it refused to pay to the plaintiff in any way. For example, Google did not limit the funds it withheld to ads appearing on specific webpages, nor did it limit its action to a specific time period when activity that purportedly violated its policies had occurred. Instead, Google refused to pay anything to plaintiff for the final pay period. Upon information and belief, other members of the proposed class, have suffered similar fates and violations of the covenant.

60. As alleged in the preceding cause of action, Google's contractual terms purportedly allowing it to refuse to pay publishers funds already earned at the time of disablement of their accounts are unenforceable because they are unconscionable and invalid liquidated damages provisions. Accordingly, it is with respect to the remainder of the AdSense contract terms, including those requiring payment for ads served, *see* Ex. A, ¶ 5, Ex. B, ¶ 11, and Ex. C, ¶ 5, that Google has breached the implied covenant of good faith and fair dealing.

61. Plaintiff and members of the proposed class have been damaged by Google's breach of the implied covenant of good faith and fair dealing in the amount of sums owed to them but not paid when their AdSense accounts were disabled, together with pre-judgment interest.

THIRD CAUSE OF ACTION

UNJUST ENRICHMENT

62. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

63. To the detriment of plaintiff and the proposed class, Google has been and continues to be unjustly enriched as a result of the unlawful and/or wrongful conduct alleged herein. More specifically, Google has been unjustly benefited by retaining, purportedly on the basis of unconscionable, invalid, and unenforceable AdSense contract terms, monies due and payable to publishers, including the plaintiff and members of the proposed class, for serving on their websites advertisements sold by Google to various advertisers.

64. As between the plaintiff and the proposed class on one hand, and Google on the other, it would be unjust for Google to retain the benefits attained by its wrongful actions. Moreover, even if Google remitted some or all of the withheld funds to its advertisers, it did so by its wrongful choice, to the publishers' detriment, after first wrongfully choosing to withhold all of the sums payable to publishers when it terminated their accounts. Thus, Google remains liable to plaintiff and members of the proposed class for these funds. Accordingly, plaintiff and members of the proposed class seek full restitution of the referenced sums which Google withheld from them and by which Google was unjustly enriched, together with pre-judgment interest, or the value of the benefit by which Google was unjustly enriched, based on the wrongful conduct alleged herein.

FOURTH CAUSE OF ACTION

**VIOLATION OF THE UNFAIR COMPETITION LAW
(CAL. BUS. & PROF. CODE §§ 17200, *et seq.*)**

65. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

66. Plaintiff brings this claim on its own behalf and on behalf of each member of the proposed nationwide class described above.

1 67. California's Unfair Competition Law ("UCL") defines unfair competition to include
2 any "unlawful, unfair, or fraudulent" business act or practice. CAL. BUS. & PROF. CODE §§ 17200,
3 *et seq.*

4 68. Google has engaged in, and, upon information and belief, continues to engage in,
5 acts of unlawful and unfair business acts and practices prohibited by California's UCL. These acts
6 include the inducing of AdSense publishers to serve ads on their websites for Google advertisers on
7 the promise of payment to the publishers of a share of the money paid to Google by the advertisers
8 for that service; causing publishers to serve those ads on their websites; disabling publisher
9 accounts before monies earned for serving those ads are due to be paid; and then withholding not
10 some, but *all*, of the funds due to the publishers for serving ads during the final payment period,
11 without any attempt to limit, let alone rationally limit, the sum withheld.

12 69. Google's conduct has harmed plaintiff and members of the proposed class. Despite
13 publishers' actions, including those of the plaintiff, to comply with Google's policies and to act in
14 good faith in response to any notices from Google of policy infringements, Google refuses to pay
15 publishers, including the plaintiff, what is owed them for serving ads during the period prior to
16 disabling the publishers' accounts. It simply withholds all the monies due, however limited in
17 scope or time a purported policy violation, or a publisher's supposed offense, may be.

18 70. Google so acts on the basis of contractual terms purportedly permitting such
19 conduct, but which actually violate California law (a) making unlawful and unenforceable
20 contractual terms that are unconscionable; and (b) rendering unlawful and unenforceable invalid
21 provisions for liquidated damages. *See* CAL. CIV. CODE § 1670.5(a); CAL. CIV. CODE § 1671(b).
22 Furthermore, Google's actions are patently unfair; as described above, Google withholds all
23 monies due to publishers for performance already rendered when Google terminates the publishers'
24 accounts, no matter how limited in scope or time the supposed offense identified by Google that
25 led to termination. Google's unlawful and unfair business acts and practices as described herein
26 demonstrate unfair competition in violation of California's UCL. *See* CAL. CIV. CODE § 17200
27 ("[U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act or
28 practice . . .").

71. Under the UCL, plaintiff and the proposed class are entitled to restitution of the monies owed them for their performance under the AdSense program, but retained by Google wrongfully, together with pre-judgment interest, and to an injunction barring Google from withholding in the future all such funds owed to AdSense publishers whose accounts it disables.

FIFTH CAUSE OF ACTION

REQUEST FOR DECLARATORY RELIEF (CALIFORNIA DECLARATORY JUDGMENT ACT CAL. CIV. PROC. CODE § 1060)

72. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

73. Google's contractual terms purportedly permitting it to withhold all funds owed to AdSense publishers when Google disables their AdSense accounts violate California law as set forth herein. As alleged herein and otherwise, these contractual terms are (a) unconscionable and (b) constitute invalid provisions for liquidated damages. Accordingly, they are unenforceable. *See, e.g.,* CAL. CIV. CODE § 1670.5(a); CAL. CIV. CODE § 1671(b). Yet Google purports to rely on these terms in withholding funds from AdSense publishers; accordingly, there is an actual controversy between the plaintiff and class members on the one hand, and Google on the other.

74. Pursuant to CAL. CIV. PROC. CODE § 1060 and otherwise, plaintiff and members of the proposed class are entitled to an order declaring these terms unconscionable, invalid, and unenforceable as against them and all AdSense publishers.

SIXTH CAUSE OF ACTION

REQUEST FOR DECLARATORY RELIEF (FEDERAL DECLARATORY JUDGMENT ACT 28 U.S.C. § 2201(a))

75. Plaintiff incorporates by reference the allegations in the above paragraphs as if fully set forth herein.

76. Google's contractual terms purportedly permitting it to withhold all funds owed to AdSense publishers when Google disables their AdSense accounts violate California law as set forth herein. As alleged herein and otherwise, these contractual terms are (a) unconscionable and (b) constitute invalid provisions for liquidated damages. Accordingly, they are unenforceable. *See, e.g.,* CAL. CIV. CODE § 1670.5(a); CAL. CIV. CODE § 1671(b). Yet Google purports to rely on

these terms in withholding funds from AdSense publishers; accordingly, there is an actual controversy between the plaintiff and class members on the one hand, and Google on the other.

77. Pursuant to 28 U.S.C. § 2201(A) and otherwise, plaintiff and members of the proposed class are entitled to an order declaring these terms unconscionable, invalid, and unenforceable as against them and all AdSense publishers.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests the following relief:

A. That the Court certify this case as a class action on the nationwide basis requested, and that it appoint plaintiff as class representative and its counsel to be class counsel;

B. That the Court award it and the proposed class all appropriate relief, including monetary relief, whether by way of restitution or damages, together with pre-judgment interest at the highest rate permitted by law, as well as injunctive relief requiring that Google cease the practices with respect to its AdSense program complained of herein, and declaratory relief, adjudging such practices and the contractual terms upon which Google purports to rely unlawful and unenforceable, in addition to recovery of its attorneys' fees, costs, and expenses;

C. That the Court grant it and the proposed class such additional orders or judgments as may be necessary to redress or prevent the unlawful practices complained of herein; and

D. That the Court award it and the proposed class such other, favorable relief as may be available and appropriate under federal or state law, or at equity.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all issues so triable.

DATED: May 20, 2014

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28 *Attorneys for Plaintiff and the Proposed Class*

Exhibit A

Google AdSense Online Terms of Service

1. Welcome to AdSense!

Thanks for your interest in our search and advertising services (the “**Services**”)!

By using our Services, you agree to these terms (the “**AdSense Terms**”), the [AdSense Program Policies](#) and the [Google Branding Guidelines](#) (collectively, the “**Agreement**”). If ever in conflict, to the extent of such conflict, the AdSense Terms will take precedence over any other terms of the Agreement. Please read the Agreement carefully.

As used in the Agreement, “you” or “publisher” means the individual or entity using the Services (and/or any individual, entity or successor entity, agency or network acting on your behalf), “we,” “us” or “Google” means Google Inc., and the “parties” means you and Google.

2. Access to the Services; AdSense Accounts

Your use of the Services is subject to your creation and our approval of an AdSense account (an “**Account**”).

We have the right to refuse or limit your access to the Services. By submitting an application to use the Services, if you are an individual, you represent that you are at least 18 years of age. You may only have one Account.

By enrolling in AdSense, you permit Google to serve, as applicable, (i) advertisements and other content (“**Ads**”), (ii) Google search boxes and search results, and (iii) related search queries and other links to your websites, mobile applications, media players, mobile content, and/or other properties approved by Google (each individually a “**Property**”). In addition, you grant Google the right to access, index and cache the Properties, or any portion thereof, including by automated means. Google may refuse to provide the Services to any Property.

Any Property that is a software application and accesses our Services (a) may require preapproval by Google in writing, and (b) must comply with Google’s [Software Principles](#).

3. Using our Services

You may use our Services only as permitted by this Agreement and any applicable laws. Don’t misuse our Services. For example, don’t interfere with our Services or try to access them using a method other than the interface and the instructions that we provide.

You may discontinue your use of any Service at any time by removing the relevant code from your Properties.

4. Changes to our Services; Changes to the Agreement

We are constantly changing and improving our Services. We may add or remove functionalities or features of the Services at any time, and we may suspend or stop a Service altogether.

We may modify the Agreement at any time. We’ll post any modifications to the AdSense Terms on this page and any modifications to the AdSense Program Policies or the Google Branding Guidelines on their respective pages. Changes will not apply retroactively and generally will become effective 14 days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you don’t agree to any modified terms in the Agreement, you’ll have to stop using the affected Services.

5. Payments

Subject to this Section 5 and Section 10 of these AdSense Terms, you will receive a payment related to the number of valid clicks on Ads displayed on your Properties, the number of valid impressions of Ads displayed on your Properties, or other valid events performed in connection with the display of Ads on your Properties, in each case as determined by Google.

Except in the event of termination, we will pay you by the end of the calendar month following any calendar

month in which the earned balance in your Account equals or exceeds the applicable payment threshold. If you implement search Services, our payments may be offset by any applicable fees for such Services. Unless expressly authorized in writing by Google, you may not enter into any type of arrangement with a third party where that third party receives payments made to you under the Agreement or other financial benefit in relation to the Services.

Payments will be calculated solely based on our accounting. Payments to you may be withheld to reflect or adjusted to exclude any amounts refunded or credited to advertisers and any amounts arising from invalid activity, as determined by Google in its sole discretion. Invalid activity is determined by Google in all cases and includes, but is not limited to, (i) spam, invalid queries, invalid impressions or invalid clicks on Ads generated by any person, bot, automated program or similar device, including through any clicks or impressions originating from your IP addresses or computers under your control; (ii) clicks solicited or impressions generated by payment of money, false representation, or requests for end users to click on Ads or take other actions; (iii) Ads served to end users whose browsers have JavaScript disabled; and (iv) clicks or impressions co-mingled with a significant amount of the activity described in (i, ii, and iii) above.

In addition to our other rights and remedies, we may (a) withhold and offset any payments owed to you under the Agreement against any fees you owe us under the Agreement or any other agreement, or (b) require you to refund us within 30 days of any invoice, any amounts we may have overpaid to you in prior periods. If you dispute any payment made or withheld relating to the Services, you must notify Google in writing within 30 days of any such payment. If you do not, any claim relating to the disputed payment is waived. If an advertiser whose Ads are displayed on any Property defaults on payment to Google, we may withhold payment or charge back your account.

To ensure proper payment, you are responsible for providing and maintaining accurate contact and payment information in your Account. You are responsible for any charges assessed by your bank or payment provider.

6. Taxes

As between you and Google, Google is responsible for all taxes (if any) associated with the transactions between Google and advertisers in connection with Ads displayed on the Properties. You are responsible for all taxes (if any) associated with the Services, other than taxes based on Google's net income. All payments to you from Google in relation to the Services will be treated as inclusive of tax (if applicable) and will not be adjusted.

7. Intellectual Property; Brand Features

Other than as set out expressly in the Agreement, neither party will acquire any right, title or interest in any intellectual property rights belonging to the other party or to the other party's licensors.

If Google provides you with software in connection with the Services, we grant you a non-exclusive, non-sublicensable license for use of such software. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Google, in the manner permitted by the Agreement. Other than distributing content via the AdMob SDK, you may not copy, modify, distribute, sell, or lease any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software, unless laws prohibit those restrictions or you have our written permission. You will not remove, obscure, or alter Google's copyright notice, Brand Features, or other proprietary rights notices affixed to or contained within any Google services, software, or documentation.

We grant you a non-exclusive, non-sublicensable license to use Google's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features ("**Brand Features**") solely in connection with your use of the Services and in accordance with the Agreement and the Google Branding Guidelines. We may revoke this license at any time. Any goodwill arising from your use of Google's Brand Features will belong to Google.

We may include your name and Brand Features in our presentations, marketing materials, customer lists and financial reports.

8. Privacy

Our [privacy policy](#) explains how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that Google can use such data in accordance with our privacy policy.

You will ensure that at all times you use the Services, the Properties have a clearly labeled and easily accessible privacy policy that provides end users with clear and comprehensive information about cookies, device-specific information, location information and other information stored on, accessed on, or collected from end users' devices in connection with the Services, including, as applicable, information about end users' options for cookie management. You will use commercially reasonable efforts to ensure that an end user gives consent to the storing and accessing of cookies, device-specific information, location information or other information on the end user's device in connection with the Services where such consent is required by law.

9. Confidentiality

You agree not to disclose Google Confidential Information without our prior written consent. "**Google Confidential Information**" includes: (a) all Google software, technology and documentation relating to the Services; (b) click-through rates or other statistics relating to Property performance as pertaining to the Services; (c) the existence of, and information about, beta features in a Service; and (d) any other information made available by Google that is marked confidential or would normally be considered confidential under the circumstances in which it is presented. Google Confidential Information does not include information that you already knew prior to your use of the Services, that becomes public through no fault of yours, that was independently developed by you, or that was lawfully given to you by a third party.

Notwithstanding this Section 9, you may accurately disclose the amount of Google's gross payments resulting from your use of the Services.

10. Termination

You may terminate the Agreement at any time by completing the [account cancellation process](#). The Agreement will be considered terminated within 10 business days of Google's receipt of your notice. If you terminate the Agreement and your earned balance equals or exceeds the applicable [threshold](#), we will pay you your earned balance within approximately 90 days after the end of the calendar month in which the Agreement is terminated. Any earned balance below the applicable [threshold](#) will remain unpaid.

Google may at any time terminate the Agreement, or suspend or terminate the participation of any Property in the Services for any reason. If we terminate the Agreement due to your breach or due to invalid activity, we may withhold unpaid amounts or charge back your account. If you breach the Agreement or Google suspends or terminates your Account, you (i) will not be allowed to create a new Account, and (ii) may not be permitted to monetize content on other Google products.

11. Indemnity

You agree to indemnify and defend Google, its affiliates, agents, and advertisers from and against any and all third-party claims and liabilities arising out of or related to the Properties, including any content served on the Properties that is not provided by Google, your use of the Services, or your breach of any term of the Agreement. Google's advertisers are third-party beneficiaries of this indemnity.

12. Representations; Warranties; Disclaimers

You represent and warrant that (i) you have full power and authority to enter into the Agreement; (ii) you are the owner of, or are legally authorized to act on behalf of the owner of, each Property; (iii) you are the technical and editorial decision maker in relation to each Property on which the Services are implemented and that you have control over the way in which the Services are implemented on each Property; (iv) Google has never previously terminated or otherwise disabled an AdSense account created by you due to your breach of the Agreement or due to invalid activity; (v) entering into or performing under the Agreement will not violate any agreement you have with a third party or any third-party rights; and (vi) all of the

information provided by you to Google is correct and current.

OTHER THAN AS EXPRESSLY SET OUT IN THE AGREEMENT, WE DO NOT MAKE ANY PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTION OF THE SERVICES, OR THEIR PROFITABILITY, RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE EACH SERVICE "AS IS".

TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED. WE EXPRESSLY DISCLAIM THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

13. Limitation of Liability

TO THE EXTENT PERMITTED BY LAW, EXCEPT FOR ANY INDEMNIFICATION OBLIGATIONS HEREUNDER OR YOUR BREACH OF ANY INTELLECTUAL PROPERTY RIGHTS, CONFIDENTIALITY OBLIGATIONS AND/OR PROPRIETARY INTERESTS RELATING TO THE AGREEMENT, (i) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THE AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND (ii) EACH PARTY'S AGGREGATE LIABILITY UNDER THE AGREEMENT IS LIMITED TO THE NET AMOUNT RECEIVED AND RETAINED BY THAT PARTICULAR PARTY IN CONNECTION WITH THIS AGREEMENT DURING THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. Each party acknowledges that the other party has entered into the Agreement relying on the limitations of liability stated herein and that those limitations are an essential basis of the bargain between the parties.

14. Miscellaneous

Entire Agreement; Amendments. The Agreement is our entire agreement relating to your use of the Services and supersedes any prior or contemporaneous agreements on that subject. This Agreement may be amended (i) in a writing signed by both parties that expressly states that it is amending the Agreement, or (ii) as set forth in Section 4, if you keep using the Services after Google modifies the Agreement.

Assignment. You may not assign or transfer any of your rights under the Agreement.

Independent Contractors. The parties are independent contractors and the Agreement does not create an agency, partnership, or joint venture.

No Third-Party Beneficiaries. Other than as set forth in Section 11, this Agreement does not create any third-party beneficiary rights.

No Waiver. Other than as set forth in Section 5, the failure of either party to enforce any provision of the Agreement will not constitute a waiver.

Severability. If it turns out that a particular term of the Agreement is not enforceable, the balance of the Agreement will remain in full force and effect.

Survival. Sections 7, 9, 10, 11, 13, and 14 of these AdSense Terms will survive termination.

Governing Law; Venue. All claims arising out of or relating to this Agreement or the Services will be governed by California law, excluding California's conflict of laws rules, and will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts.

Force Majeure. Neither party will be liable for inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance) that was beyond the party's reasonable control.

Communications. In connection with your use of the Services, we may contact you regarding service announcements, administrative messages, and other information. You may opt out of some of those communications in your Account settings. For information about how to contact Google, please visit our [contact page](#).

* * *

15. Service-Specific Terms

If you choose to implement any of the following Services on a Property, you also agree to the additional terms identified below:

AdMob: the AdMob Publisher Guidelines and Policies.

Custom Search Engine: the Custom Search Engine Terms of Service.

Exhibit B

Google AdSense™ Online Standard Terms and Conditions

PLEASE READ VERY CAREFULLY THESE TERMS AND CONDITIONS AND THE FAQ BEFORE REGISTERING FOR THE GOOGLE ADSENSE ONLINE PROGRAM. PARTICIPATION IN THE GOOGLE ADSENSE ONLINE PROGRAM INDICATES THAT YOU ACCEPT THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, PLEASE DO NOT REGISTER FOR OR PARTICIPATE IN THE GOOGLE ADSENSE ONLINE PROGRAM.

Introduction. This agreement ("**Agreement**") between You and Google Inc. ("**Google**") consists of these Google AdSense Online Program (the "**Program**") Standard Terms and Conditions ("**Terms and Conditions**"). A description of the Program, as generally offered by Google, is available at the Program Frequently Asked Questions ("**FAQ**") URL, located at <https://www.google.com/adsense/faq>, or such other URL as Google may provide from time to time. "**You**" or "**Publisher**" means any entity identified in an enrollment form submitted by the same or affiliated persons, and/or any agency or network acting on its (or their) behalf, which shall also be bound by the terms of this Agreement.

1. **Program Participation.** Participation in the Program is subject to Google's prior approval and Your continued compliance with the Program Policies ("**Program Policies**"), located at <https://www.google.com/adsense/policies>, and/or such other URL as Google may provide from time to time. Google reserves the right to refuse participation to any applicant or participant at any time in its sole discretion. By enrolling in the Program, You represent that You are at least 18 years of age and agree that Google may serve (a) third party and/or Google provided advertisements and/or other content (such third party provided advertisements, Google provided advertisements and other content, collectively, "**Ads**"), provided, however, that if Google serves non-compensated content, You will have the ability to opt out of receiving such content as part of the Program, (b) related Google queries and/or Ad search box(es) (collectively, "**Links**"), (c) Google Web and/or Site search results (collectively, "**Search Results**"), and/or (d) Google referral Ads ("**Referral Buttons**"), each in connection with the Web site(s), media player(s), video content and/or mobile content that You designate, or such other properties expressly authorized in writing by Google (including by electronic mail) (such other properties, "**Other Properties**"), and the Atom, RSS, or other feeds distributed through such Web site(s), media player(s), video content, mobile content and/or Other Properties (each such Web site, media player, video content, mobile content, Other Property or feed, a "**Property**"). For the avoidance of doubt, any reference in this Agreement or the Program Policies to an individual "Web page", "Web site", "Web site page" or the like that is part of the Property will also mean feeds and media players distributed through such Web site. Multiple accounts held by the same individual or entity are subject to immediate termination unless expressly authorized in writing by Google (including by electronic mail). In some circumstances expressly authorized in writing by Google (including by electronic mail), You may enroll in the Program and create an account for the sole purpose of receiving payment from Google, and not, for purposes of clarification, for the purpose of displaying Ads, Links, Search Results and/or Referral Buttons on a

Property. If, however, You subsequently use your Account to participate in the Program (i.e. for the purpose of displaying Ads, Links, Search Results and/or Referral Buttons on a Property), then such use of the Program will be governed by the terms of this Agreement. You must have and abide by an appropriate privacy policy that clearly discloses that third parties may be placing and reading cookies on your users' browser, or using web beacons to collect information, in the course of ads being served on your website. Your privacy policy should also include information about user options for cookie management.

2. **Implementation and Operation of Ads, Search Results, and Referrals.** You agree to comply with the specifications provided by Google from time to time to enable proper delivery, display, tracking, and reporting of Ads, Links, Search Results, Referral Buttons, and Google Brand Features (as defined in Section 12 below) in connection with Your Property(ies), including without limitation by not modifying the JavaScript or other programming provided to You by Google in any way, unless expressly authorized in writing by Google (including by electronic mail).

- **AdSense for Search.** If You have elected to receive Search Results, You will display on Your Property(ies) a Google search box (a "**Search Box**") in accordance with the specifications provided by Google. Except for related Google queries, all search queries (including queries entered into an Ad search box) must originate from individual human end users inputting data directly into a Search Box (or Ad search box, as applicable) on Your Property(ies). You will send any and all queries (without editing, filtering, truncating, appending terms to or otherwise modifying such queries individually or in the aggregate) to Google and Google will use commercially reasonable efforts to provide You with corresponding Search Results and/or Ads, as applicable and as available. Search Results and any accompanying Ads will be displayed on Web pages that may be hosted by Google (each, a "**Search Results Page**"), and the format, look and feel of those Web pages hosted by Google may be modified by Google from time to time.
- **AdSense for Content.** All content and Property-based Ads (and Ads served in response to end user clicks on and queries entered into Links, if any) shall be grouped by Google and displayed with Links (where applicable) to end users of the Property(ies) as ad units (such groups of Ads and/or Links collectively referred to as "**Ad Units**") in standard formats as offered generally by Google from time to time, as may be described in the FAQ. You may select a format approved by Google for the display of Ad Units in connection with the Property(ies), but You acknowledge and agree that Ads and/or Links: (i) shall only be displayed in connection with the Property(ies), each of which is subject to review and approval by Google in its discretion at any time; and (ii) shall be subject to the placement guidelines set forth herein.
- **Referrals.** If You have elected to use the Google AdSense Referrals feature, You will implement any Referral Buttons on Your Property(ies) in accordance

with the specifications provided by Google. End users who click on a Referral Button will be directed to a Web page that may be hosted by Google (“**Referral Page**”), and the format, look and feel of those Web pages hosted by Google may be modified by Google from time to time. A “**Referral Event**” will be initiated when an end user clicks on a Referral Button from the Property and will be completed when the referral requirements for the relevant product are satisfied in accordance with this Agreement. Such referral requirements, along with the payment amount applicable to the Referral Event, are located at <https://www.google.com/adsense/referrals>, or such other URL as Google may provide from time to time. You agree to comply with the specifications provided by Google from time to time to enable proper tracking and reporting of Referral Events in connection with Your Property. You shall not promote or facilitate a Referral Event by any means other than displaying a Referral Button on the Property, unless expressly authorized in writing by Google (including by electronic mail).

- **AdSense for Video.** If you have elected to use AdSense for Video, Your participation is subject to your continued compliance with the AdSense for Video Program policies located at <http://adsense.google.com/support/bin/answer.py?answer=73987> or the URL as Google may provide from time to time. All Ads (including Ads served in response to end user clicks on and queries entered into Links, if any) shall be (1) grouped by Google and displayed with Links (where applicable) to end users of the Property(ies) as Ad Unit(s) or (2) pre-, post- or interstitial roll in connection with third party video content, in each case in standard formats as offered generally by Google from time to time, as may be further described in the applicable policies. You acknowledge and agree that the Ads will be displayed on the Property in a video format approved by Google, and that such Ads: (i) shall only be displayed in connection with the Property(ies) and non-advertisement video content (collectively “**Video Media**”), all of which is subject to review and approval by Google in its discretion at any time; and (ii) shall only be requested in connection with end user initiated Video Media. In addition, You agree that You may only display one (1) Ad Unit within Your media player at any single time, unless otherwise approved by Google in writing.
- **General; Serviced Pages; Filtering; Beta Features.** You agree not to display on the same Web page in connection with which any Ad Unit, Ad, Link, Search Box, or Referral Button is displayed (a “**Serviced Page**”) any advertisement(s) or content that an end user of Your Property(ies) would reasonably confuse with a Google advertisement or otherwise associate with Google. Certain Google services available as part of the Program may contain filtering capability, such as SafeSearch or AdSafe, that You may access through Your account. However, if You elect to enable any such filters, You acknowledge and agree that: (i) it is Your responsibility to enable such features in accordance with the specifications provided by Google, and (ii) Google does not and cannot commit that all results

(including Ads, Links and Search Results) will be limited to results elected by enabling such filter(s). Some Program features are identified as “Beta” or otherwise unsupported (“**Beta Features**”). To the fullest extent permitted by law, Beta Features are provided "as is" and at Your option and risk. You shall not disclose to any third party any information from Beta Features, existence of non-public Beta Features or access to Beta Features. .

3. **Communications Solely With Google.** You agree to direct to Google, and not to any advertiser, any communication regarding any Ad(s) or Link(s) displayed in connection with Your Property(ies).
4. **Parties' Responsibilities.** You are solely responsible for the Property(ies), including all content and materials, maintenance and operation thereof, the proper implementation of Google's specifications, and adherence to the terms of this Agreement, including compliance with the Program Policies. Google reserves the right to investigate, at its own discretion, any activity that may violate this Agreement, including but not limited to any use of a software application to access Ads, Links, Search Results, or Referral Buttons or to complete any Referral Event, or any engagement in any activity prohibited by this Agreement. Google is not responsible for anything related to Your Property(ies), including without limitation the receipt of queries from end users of Your Property(ies) or the transmission of data between Your Property(ies) and Google. In addition, Google shall not be obligated to provide notice to You in the event that any Ad, Link, Search Result, or Referral Button is not being displayed properly to, or Referral Event is not being completed properly by, end users of the Property(ies).
5. **Prohibited Uses.** You shall not, and shall not authorize or encourage any third party to:
 - (i) directly or indirectly generate queries, Referral Events, or impressions of or clicks on any Ad, Link, Search Result, or Referral Button (including without limitation by clicking on “play” for any video Ad) through any automated, deceptive, fraudulent or other invalid means, including but not limited to through repeated manual clicks, the use of robots or other automated query tools and/or computer generated search requests, and/or the unauthorized use of other search engine optimization services and/or software; (ii) edit, modify, filter, truncate or change the order of the information contained in any Ad, Link, Ad Unit, Search Result, or Referral Button, or remove, obscure or minimize any Ad, Link, Ad Unit, Search Result, or Referral Button in any way without authorization from Google; (iii) frame, minimize, remove or otherwise inhibit the full and complete display of any Web page accessed by an end user after clicking on any part of an Ad ("**Advertiser Page**"), any Search Results Page, or any Referral Page; (iv) redirect an end user away from any Advertiser Page, Search Results Page, or Referral Page; provide a version of the Advertiser Page, Search Results Page, or Referral Page that is different from the page an end user would access by going directly to the Advertiser Page, Search Results Page, or Referral Page; intersperse any content between the Ad and the Advertiser Page, between the page containing the Search Box and the Search Results Page, or between the Referral Button and the Referral Page; or otherwise provide anything other than a direct link from an Ad to an Advertiser Page, from the page containing the Search Box to the Search Results Page,

or from the Referral Button to the Referral Page; (v) display any Ad(s), Link(s), or Referral Button(s) on any Web page or any Web site that contains any pornographic, hate-related, violent, or illegal content; (vi) directly or indirectly access, launch, and/or activate Ads, Links, Search Results, or Referral Buttons through or from, or otherwise incorporate the Ads, Links, Search Results, or Referral Buttons in, any software application, Web site, or other means other than Your Property(ies), and then only to the extent expressly permitted by this Agreement; (vii) "crawl", "spider", index or in any non-transitory manner store or cache information obtained from any Ads, Links, Search Results, or Referral Events, or any part, copy, or derivative thereto; (viii) act in any way that violates any Program Policies posted on the Google Web Site, as may be revised from time to time, or any other agreement between You and Google (including without limitation the Google AdWords program terms); (ix) disseminate malware; (x) create a new account to use the Program after Google has terminated this Agreement with You as a result of your breach of this Agreement; or (xi) engage in any action or practice that reflects poorly on Google or otherwise disparages or devalues Google's reputation or goodwill. You acknowledge that any attempted participation or violation of any of the foregoing is a material breach of this Agreement and that we may pursue any and all applicable legal and equitable remedies against You, including an immediate suspension of Your account or termination of this Agreement, and the pursuit of all available civil or criminal remedies.

6. **Termination; Cancellation.** Subject to any third party agreements You may have with other Google customers (e.g., Your Web hosting company), You may stop displaying Ads, Links, Search Boxes, or Referral Buttons on any Property in the Program with or without cause at any time by removing the Google JavaScript or similar programming from Your Properties. You may terminate this Agreement with or without cause at any time by sending written notice of your desire to cancel Your participation in the Program to adsense-support@google.com. This Agreement will be deemed terminated within ten (10) business days of Google's receipt of Your notice. Google may investigate any activity that may violate this Agreement. Google may at any time, in its sole discretion, terminate all or part of the Program, terminate this Agreement, or suspend or terminate the participation of any Property in all or part of the Program for any reason. In addition, Google reserves the right to terminate without notice any account that has not generated a sufficient number of valid clicks on Ads or Referral Buttons or valid impressions of Ads (in each case as measured by Google) for a period of two (2) months or more. Upon termination of participation of any Property in the Program or termination of this Agreement for any reason, Sections 3, 6 through 10, and 14 through 17 shall survive termination.
7. **Confidentiality.** You agree not to disclose Google Confidential Information without Google's prior written consent. "**Google Confidential Information**" includes without limitation: (a) all Google software, technology, programming, specifications, materials, guidelines and documentation relating to the Program; (b) click-through rates or other statistics relating to Property performance in the Program provided to You by Google; and (c) any other information designated in writing by Google as "Confidential" or an equivalent designation. However, You may accurately disclose the amount of Google's

gross payments to You pursuant to the Program. Google Confidential Information does not include information that has become publicly known through no breach by You or Google, or information that has been (i) independently developed without access to Google Confidential Information, as evidenced in writing; (ii) rightfully received by You from a third party; or (iii) required to be disclosed by law or by a governmental authority.

8. **No Guarantee.** Google makes no guarantee regarding the level of impressions of Ads or clicks on any Ad or Referral Button, the timing of delivery of such impressions and/or clicks, the completion of Referral Events, or the amount of any payment to be made to You under this Agreement. In addition, for the avoidance of doubt, Google does not guarantee the Program will be operable at all times or during any down time (i) caused by outages to any public Internet backbones, networks or servers, (ii) caused by any failures of Your equipment, systems or local access services, (iii) for previously scheduled maintenance or (iv) relating to events beyond Google's (or its wholly owned subsidiaries') control such as strikes, riots, insurrection, fires, floods, explosions, war, governmental action, labor conditions, earthquakes, natural disasters, or interruptions in Internet services to an area where Google (or its wholly owned subsidiaries) or Your servers are located or co-located.

9. **No Warranty.** GOOGLE MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WITH RESPECT TO ADVERTISING, LINKS, SEARCH, REFERRALS, AND OTHER SERVICES, AND EXPRESSLY DISCLAIMS THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. TO THE EXTENT ADS, LINKS, AND SEARCH RESULTS ARE BASED ON OR DISPLAYED IN CONNECTION WITH NON-GOOGLE CONTENT, GOOGLE SHALL NOT HAVE ANY LIABILITY IN CONNECTION WITH THE DISPLAY OF SUCH ADS, LINKS, AND SEARCH RESULTS.

10. **Limitations of Liability; Force Majeure.** EXCEPT FOR ANY INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS HEREUNDER OR YOUR BREACH OF ANY INTELLECTUAL PROPERTY RIGHTS AND/OR PROPRIETARY INTERESTS RELATING TO THE PROGRAM, (i) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND (ii) GOOGLE'S AGGREGATE LIABILITY TO PUBLISHER UNDER THIS AGREEMENT FOR ANY CLAIM IS LIMITED TO THE NET AMOUNT PAID BY GOOGLE TO PUBLISHER DURING THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. Each party acknowledges that the other party has entered into this Agreement relying on the limitations of liability stated herein and that those limitations are an essential basis of the bargain between the parties. Without limiting the foregoing and except for payment obligations, neither party shall have any liability for any failure or delay

resulting from any condition beyond the reasonable control of such party, including but not limited to governmental action or acts of terrorism, earthquake or other acts of God, labor conditions, and power failures.

11. **Payment.** You shall receive a payment related to the number of valid clicks on Ads, the number of valid impressions of Ads, the number of valid completions of Referral Events initiated through Referral Buttons displayed in connection with Your Property(ies), and/or other events performed in connection with the display of Ads on Your Property(ies), in each case as determined by Google for its participants in the Program. If You have elected to receive Search Results, this payment will be offset by fees applicable to Search Results. Unless otherwise agreed to by the parties in writing (including by electronic mail), payments to You shall be sent by Google within approximately thirty (30) days after the end of each calendar month that Ads or Referral Buttons are running on Your Property or that Ads are running on Search Results Pages if Your earned balance is \$100 or more. In the event the Agreement is terminated, Google shall pay Your earned balance to You within approximately ninety (90) days after the end of the calendar month in which the Agreement is terminated by You (following Google's receipt of Your written request, including by email, to terminate the Agreement) or by Google. In no event, however, shall Google make payments for any earned balance less than \$10. Notwithstanding the foregoing, Google shall not be liable for any payment based on: (a) any amounts which result from invalid queries, invalid Referral Events, or invalid clicks or impressions on Ads generated by any person, bot, automated program or similar device, as reasonably determined by Google, including without limitation through any clicks or impressions (i) originating from Your IP addresses or computers under Your control, (ii) solicited by payment of money, false representation, or request for end users to click on Ads, or (iii) solicited by payment of money, false representation, or any illegal or otherwise invalid request for end users to complete Referral Events; (b) Ads or Referral Buttons delivered to end users whose browsers have JavaScript disabled; (c) Ads benefiting charitable organizations and other placeholder or transparent Ads that Google may deliver; or (d) clicks co-mingled with a significant number of invalid clicks described in (a) above, or as a result of any breach of this Agreement by You for any applicable pay period. Google reserves the right to withhold payment or charge back Your account due to any of the foregoing or any breach of this Agreement by You, pending Google's reasonable investigation of any of the foregoing or any breach of this Agreement by You, or in the event that an advertiser whose Ads are displayed in connection with Your Property(ies) defaults on payment for such Ads to Google. In addition, if You are past due on any payment to Google in connection with any Google program (including without limitation the Google AdWords program), Google reserves the right to withhold payment until all outstanding payments have been made or to offset amounts owed to You in connection with the Program by amounts owed by You to Google. To ensure proper payment, You are solely responsible for providing and maintaining accurate address and other contact information as well as payment information associated with Your account. For U.S. taxpayers, this information includes without limitation a valid U.S. tax identification number and a fully-completed Form W-9. For non-U.S. taxpayers, this information includes without limitation either a signed certification that the taxpayer does not have

U.S. Activities (as described on the Google AdSense: Tax Information Page located at <https://www.google.com/adsense/taxinfo>, or such other URL as Google may provide from time to time) or a fully-completed Form W-8 or other form, which may require a valid U.S. tax identification number, as required by the U.S. tax authorities. Any bank fees related to returned or cancelled checks due to a contact or payment information error or omission may be deducted from the newly issued payment. You agree to pay all applicable taxes or charges imposed by any government entity in connection with Your participation in the Program. Google may change its pricing and/or payment structure at any time. If You dispute any payment made under the Program, You must notify Google in writing within thirty (30) days of any such payment; failure to so notify Google shall result in the waiver by You of any claim relating to any such disputed payment. Payment shall be calculated solely based on records maintained by Google. No other measurements or statistics of any kind shall be accepted by Google or have any effect under this Agreement. The payments made under this Agreement are for use by You only and may not be transferred or in any manner passed on to any third party (i.e., distributed to Properties managed by You that require separate payments) unless expressly authorized in writing by Google (including by electronic mail). From time to time Google may be holding funds, payments and other amounts due to You in connection with the AdSense Program. You acknowledge and agree that Google may, without further notice to You, contribute to a charitable organization selected by Google all funds, payments and other amounts related to the AdSense Program that are held by Google and that are due to you (if any), but which Google is unable to pay or deliver to You because Your account is Inactive (as defined below). "Inactive" means that, based on Google's records: (a) for a period of two (2) years or more You have not logged into your account or accepted funds, payments or other amounts that Google has attempted to pay or deliver to You, and (b) Google has been unable to reach You, or has not received adequate payment instructions from You, after contacting You at the address shown in Google's records.

12. **Publicity.** You agree that Google may use Your name and logo in presentations, marketing materials, customer lists, financial reports, Web site listings of customers, Search Results Pages, and Referral Pages. If You wish to use Google's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features ("**Brand Features**"), You may do so, so long as such use is in compliance with this Agreement and in compliance with Google's then current Brand Feature use guidelines, and any content contained or referenced therein, which guidelines may be found at the following URL: <http://www.google.com/permissions/guidelines.html> (or such other URL Google may provide from time to time).
13. **Representations and Warranties.** You represent and warrant that (a) all of the information provided by You to Google to enroll in the Program is correct and current; (b) You are the owner of each Property or You are legally authorized to act on behalf of the owner of such Property(ies) for the purposes of this Agreement and the Program; (c) You have all necessary right, power, and authority to enter into this Agreement and to perform the acts required of You hereunder; and (d) You have complied and will continue to comply with all applicable laws, statutes, ordinances, and regulations

(including without limitation the CAN-SPAM Act of 2003 and any relevant data protection or privacy laws) in Your performance of any acts hereunder. In addition, to the extent that Your Site is a media player (1) You represent and warrant that You have a valid license to use and distribute such media player (including all content therein, including without limitation any Ads or Ad Units) for the purposes of this Agreement and the Program; and (2) You shall ensure that any media player(s) that constitute the Site shall comply with the terms and conditions set forth herein. You further represent and warrant that each Property and any material displayed therein: (i) comply with all applicable laws, statutes, ordinances, and regulations; (ii) do not breach and have not breached any duty toward or rights of any person or entity including, without limitation, rights of intellectual property, publicity or privacy, or rights or duties under consumer protection, product liability, tort, or contract theories; and (iii) are not pornographic, hate-related or otherwise violent in content.

14. **Your Obligation to Indemnify.** You agree to indemnify, defend and hold Google, its agents, affiliates, subsidiaries, directors, officers, employees, and applicable third parties (e.g. relevant advertisers, syndication partners, licensors, licensees, consultants and contractors) (collectively "**Indemnified Person(s)**") harmless from and against any and all third party claims, liability, loss, and expense (including damage awards, settlement amounts, and reasonable legal fees), brought against any Indemnified Person(s), arising out of, related to or which may arise from Your use of the Program, the Property(ies), and/or Your breach of any term of this Agreement.
15. **Google Rights.** You acknowledge that Google owns all right, title and interest, including without limitation all Intellectual Property Rights (as defined below), in and to the Program (including Google's ad serving technology, search technology, referral technology, and Brand Features, including implied licenses, and excluding items licensed by Google from third parties and excluding any third party media player that may comprise the Property), and that You will not acquire any right, title, or interest in or to the Program except as expressly set forth in this Agreement. You will not modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from any Google services, software, or documentation, or create or attempt to create a substitute or similar service or product through use of or access to the Program or proprietary information related thereto. You will not remove, obscure, or alter Google's copyright notice, Brand Features, or other proprietary rights notices affixed to or contained within any Google services, software, or documentation (including without limitation the display of Google's Brand Features with Ads, Links, Search Boxes, Search Results, and/or Referral Buttons, as applicable). "**Intellectual Property Rights**" means any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, as well as, any and all applications, renewals, extensions, restorations and re-instatements thereof, now or hereafter in force and effect worldwide.

16. **Information Rights.** Google may retain and use, subject to the terms of the Google

Privacy Policy (located at <http://www.google.com/privacy.html>, or such other URL as Google may provide from time to time), all information You provide, including but not limited to Property demographics and contact and billing information. You agree that Google may transfer and disclose to third parties personally identifiable information about You for the purpose of approving and enabling Your participation in the Program, including to third parties that reside in jurisdictions with less restrictive data laws than Your own. Google may also provide information in response to valid legal process, such as subpoenas, search warrants and court orders, or to establish or exercise its legal rights or defend against legal claims. Google disclaims all responsibility, and will not be liable to You, however, for any disclosure of that information by any such third party. Google may share non-personally-identifiable information about You, including Property URLs, Property-specific statistics and similar information collected by Google, with advertisers, business partners, sponsors, and other third parties. In addition, You grant Google the right to access, index and cache the Property(ies), or any portion thereof, including by automated means including Web spiders or crawlers.

17. **Miscellaneous.** This Agreement shall be governed by the laws of California, except for its conflicts of laws principles. Any dispute or claim arising out of or in connection with this Agreement shall be adjudicated in Santa Clara County, California. The parties specifically exclude from application to the Agreement the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. Any modifications to this Agreement must be made in a writing executed by both parties, by Your online acceptance of updated terms, or after Your continued participation in the Program after such terms have been updated by Google. The failure to require performance of any provision shall not affect a party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. If any provision herein is held unenforceable, then such provision will be modified to reflect the parties' intention, and the remaining provisions of this Agreement will remain in full force and effect. You may not resell, assign, or transfer any of Your rights hereunder. Any such attempt may result in termination of this Agreement, without liability to Google. Notwithstanding the foregoing, Google may assign this Agreement to any affiliate at any time without notice. The relationship between Google and You is not one of a legal partnership relationship, but is one of independent contractors.

2008-02-25

Exhibit C

Google AdSense Online Terms of Service

1. Welcome to AdSense!

Thanks for your interest in our search and advertising services (the “**Services**”)!

By using our Services, you agree to these terms (the “**AdSense Terms**”), the [AdSense Program Policies](#) and the [Google Branding Guidelines](#) (collectively, the “**Agreement**”). If ever in conflict, to the extent of such conflict, the AdSense Terms will take precedence over any other terms of the Agreement. Please read the Agreement carefully.

As used in the Agreement, “you” or “publisher” means the individual or entity using the Services (and/or any individual, entity or successor entity, agency or network acting on your behalf), “we,” “us” or “Google” means Google Inc., and the “parties” means you and Google.

2. Access to the Services; AdSense Accounts

Your use of the Services is subject to your creation and our approval of an AdSense account (an “**Account**”). We have the right to refuse or limit your access to the Services. By submitting an application to use the Services, if you are an individual, you represent that you are at least 18 years of age. You may only have one Account.

By enrolling in AdSense, you permit Google to serve, as applicable, (i) advertisements and other content (“**Ads**”), (ii) Google search boxes and search results, and (iii) related search queries and other links to your websites, mobile applications, media players, mobile content, and/or other properties approved by Google (each individually a “**Property**”). In addition, you grant Google the right to access, index and cache the Properties, or any portion thereof, including by automated means. Google may refuse to provide the Services to any Property.

Any Property that is a software application and accesses our Services (a) may require preapproval by Google in writing, and (b) must comply with Google’s [Software Principles](#).

3. Using our Services

You may use our Services only as permitted by this Agreement and any applicable laws. Don’t misuse our Services. For example, don’t interfere with our Services or try to access them using a method other than the interface and the instructions that we provide.

You may discontinue your use of any Service at any time by removing the relevant code from your Properties.

4. Changes to our Services; Changes to the Agreement

We are constantly changing and improving our Services. We may add or remove functionalities or features of the Services at any time, and we may suspend or stop a Service altogether.

We may modify the Agreement at any time. We’ll post any modifications to the AdSense Terms on this page and any modifications to the AdSense Program Policies or the Google Branding Guidelines on their respective pages. Changes will not apply retroactively and generally will become effective 14 days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you don’t agree to any modified terms in the Agreement, you’ll have to stop using the affected Services.

5. Payments

Subject to this Section 5 and Section 10 of these AdSense Terms, you will receive a payment related to the number of valid clicks on Ads displayed on your Properties, the number of valid impressions of Ads displayed on your Properties, or other valid events performed in connection with the display of Ads on your Properties, in each case as determined by Google.

Except in the event of termination, we will pay you by the end of the calendar month following any calendar month in which the earned balance in your Account equals or exceeds the applicable [payment threshold](#). If you implement search Services, our payments may be offset by any applicable fees for such Services.

Unless expressly authorized in writing by Google, you may not enter into any type of arrangement with a third party where that third party receives payments made to you under the Agreement or other financial benefit in relation to the Services.

Payments will be calculated solely based on our accounting. Payments to you may be withheld to reflect or adjusted to exclude any amounts refunded or credited to advertisers and any amounts arising from invalid activity, as determined by Google in its sole discretion. Invalid activity is determined by Google in all cases and includes, but is not limited to, (i) spam, invalid queries, invalid impressions or invalid clicks on Ads generated by any person, bot, automated program or similar device, including through any clicks or impressions originating from your IP addresses or computers under your control; (ii) clicks solicited or impressions generated by payment of money, false representation, or requests for end users to click on Ads or take other actions; (iii) Ads served to end users whose browsers have JavaScript disabled; and (iv) clicks or impressions co-mingled with a significant amount of the activity described in (i, ii, and iii) above.

In addition to our other rights and remedies, we may (a) withhold and offset any payments owed to you under the Agreement against any fees you owe us under the Agreement or any other agreement, or (b) require you to refund us within 30 days of any invoice, any amounts we may have overpaid to you in prior periods. If you dispute any payment made or withheld relating to the Services, you must notify Google in writing within 30 days of any such payment. If you do not, any claim relating to the disputed payment is waived. If an advertiser whose Ads are displayed on any Property defaults on payment to Google, we may withhold payment or charge back your account. To ensure proper payment, you are responsible for providing and maintaining accurate contact and payment information in your Account. You are responsible for any charges assessed by your bank or payment provider.

6. Taxes

As between you and Google, Google is responsible for all taxes (if any) associated with the transactions between Google and advertisers in connection with Ads displayed on the Properties. You are responsible for all taxes (if any) associated with the Services, other than taxes based on Google's net income. All payments to you from Google in relation to the Services will be treated as inclusive of tax (if applicable) and will not be adjusted.

7. Intellectual Property; Brand Features

Other than as set out expressly in the Agreement, neither party will acquire any right, title or interest in any intellectual property rights belonging to the other party or to the other party's licensors.

If Google provides you with software in connection with the Services, we grant you a non-exclusive, non-sublicensable license for use of such software. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Google, in the manner permitted by the Agreement. Other than distributing content via the AdMob SDK, you may not copy, modify, distribute, sell, or lease any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software, unless laws prohibit those restrictions or you have our written permission. You will not remove, obscure, or alter Google's copyright notice, Brand Features, or other proprietary rights notices affixed to or contained within any Google services, software, or documentation.

We grant you a non-exclusive, non-sublicensable license to use Google's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features ("**Brand Features**") solely in connection with your use of the Services and in accordance with the Agreement and the Google Branding Guidelines. We may revoke this license at any time. Any goodwill arising from your use of Google's Brand Features will belong to Google.

We may include your name and Brand Features in our presentations, marketing materials, customer lists and financial reports.

8. Privacy

Our [privacy policy](#) explains how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that Google can use such data in accordance with our privacy policy.

You will ensure that at all times you use the Services, the Properties have a clearly labeled and easily accessible privacy policy that provides end users with clear and comprehensive information about cookies, device-specific information, location information and other information stored on, accessed on, or collected from end users' devices in connection with the Services, including, as applicable, information about end users' options for cookie management. You will use commercially reasonable efforts to ensure that an end user gives consent to the storing and accessing of cookies, device-specific information, location information or other information on the end user's device in connection with the Services where such consent is required by law.

9. Confidentiality

You agree not to disclose Google Confidential Information without our prior written consent.

"**Google Confidential Information**" includes: (a) all Google software, technology and documentation relating to the Services; (b) click-through rates or other statistics relating to Property performance as pertaining to the Services; (c) the existence of, and information about, beta features in a Service; and (d) any other information made available by Google that is marked confidential or would normally be considered confidential under the circumstances in which it is presented. Google Confidential Information does not include information that you already knew prior to your use of the Services, that becomes public through no fault of yours, that was independently developed by you, or that was lawfully given to you by a third party. Notwithstanding this Section 9, you may accurately disclose the amount of Google's gross payments resulting from your use of the Services.

10. Termination

You may terminate the Agreement at any time by completing the [account cancellation process](#). The Agreement will be considered terminated within 10 business days of Google's receipt of your notice. If you terminate the Agreement and your earned balance equals or exceeds the applicable [threshold](#), we will pay you your earned balance within approximately 90 days after the end of the calendar month in which the Agreement is terminated. Any earned balance below the applicable [threshold](#) will remain unpaid.

Google may at any time terminate the Agreement, or suspend or terminate the participation of any Property in the Services for any reason. If we terminate the Agreement due to your breach or due to invalid activity, we may withhold unpaid amounts or charge back your account. If you breach the Agreement or Google suspends or terminates your Account, you (i) will not be allowed to create a new Account, and (ii) may not be permitted to monetize content on other Google products.

11. Indemnity

You agree to indemnify and defend Google, its affiliates, agents, and advertisers from and against any and all third-party claims and liabilities arising out of or related to the Properties, including any content served on the Properties that is not provided by Google, your use of the Services, or your breach of any term of the Agreement. Google's advertisers are third-party beneficiaries of this indemnity.

12. Representations; Warranties; Disclaimers

You represent and warrant that (i) you have full power and authority to enter into the Agreement; (ii) you are the owner of, or are legally authorized to act on behalf of the owner of, each Property; (iii) you are the technical and editorial decision maker in relation to each Property on which the Services are implemented and that you have control over the way in which the Services are implemented on each Property; (iv) Google has never previously terminated or otherwise disabled an AdSense account created by you due to your breach of the Agreement or due to invalid activity;

(v) entering into or performing under the Agreement will not violate any agreement you have with a third party or any third-party rights; and (vi) all of the information provided by you to Google is correct and current.

OTHER THAN AS EXPRESSLY SET OUT IN THE AGREEMENT, WE DO NOT MAKE ANY PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTION OF THE SERVICES, OR THEIR PROFITABILITY, RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE EACH SERVICE "AS IS".

TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED. WE EXPRESSLY DISCLAIM THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

13. Limitation of Liability

TO THE EXTENT PERMITTED BY LAW, EXCEPT FOR ANY INDEMNIFICATION OBLIGATIONS HEREUNDER OR YOUR BREACH OF ANY INTELLECTUAL PROPERTY RIGHTS, CONFIDENTIALITY OBLIGATIONS AND/OR PROPRIETARY INTERESTS RELATING TO THE AGREEMENT, (i) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THE AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND (ii) EACH PARTY'S AGGREGATE LIABILITY UNDER THE AGREEMENT IS LIMITED TO THE NET AMOUNT RECEIVED AND RETAINED BY THAT PARTICULAR PARTY IN CONNECTION WITH THIS AGREEMENT DURING THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. Each party acknowledges that the other party has entered into the Agreement relying on the limitations of liability stated herein and that those limitations are an essential basis of the bargain between the parties.

14. Miscellaneous

Entire Agreement; Amendments. The Agreement is our entire agreement relating to your use of the Services and supersedes any prior or contemporaneous agreements on that subject. This Agreement may be amended (i) in a writing signed by both parties that expressly states that it is amending the Agreement, or (ii) as set forth in Section 4, if you keep using the Services after Google modifies the Agreement.

Assignment. You may not assign or transfer any of your rights under the Agreement.

Independent Contractors. The parties are independent contractors and the Agreement does not create an agency, partnership, or joint venture.

No Third-Party Beneficiaries. Other than as set forth in Section 11, this Agreement does not create any third-party beneficiary rights.

No Waiver. Other than as set forth in Section 5, the failure of either party to enforce any provision of the Agreement will not constitute a waiver.

Severability. If it turns out that a particular term of the Agreement is not enforceable, the balance of the Agreement will remain in full force and effect.

Survival. Sections 7, 9, 10, 11, 13, and 14 of these AdSense Terms will survive termination.

Governing Law; Venue. All claims arising out of or relating to this Agreement or the Services will be governed by California law, excluding California's conflict of laws rules, and will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts.

Force Majeure. Neither party will be liable for inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance) that was beyond the party's reasonable control.

Communications. In connection with your use of the Services, we may contact you regarding service announcements, administrative messages, and other information. You may opt out of some

of those communications in your Account settings. For information about how to contact Google, please visit our [contact page](#).

* * *

15. Service-Specific Terms

If you choose to implement any of the following Services on a Property, you also agree to the additional terms identified below:

AdMob: the [AdMob Publisher Guidelines and Policies](#).

Custom Search Engine: the [Custom Search Engine Terms of Service](#).

Exhibit D

1. I am a former Google employee and I am writing this to leak information to the public of
2. what I
3. witnessed and took part in while being an employee. My position was to deal with AdSense
4. accounts,
5. more specifically the accounts of publishers (not advertisers). I was employed at Google
6. for a period of
7. several years in this capacity.
8.
9. Having signed many documents such as NDA's and non-competes, there are many repercussions
10. for me,
11. especially in the form of legal retribution from Google. I have carefully planned this
12. leak to coincide with
13. certain factors in Google such as waiting for the appropriate employee turn around so that
14. my identity
15. could not be discovered.
16.
17. To sum it up for everyone, I took part in what I (and many others) would consider theft of
18. money from
19. the publishers by Google, and from direct orders of management. There were many AdSense
20. employees
21. involved, and it spanned many years, and I hear it still is happening today except on a
22. much wider scale.
23. No one on the outside knows it, if they did, the FBI and possibly IRS would immediately
24. launch an
25. investigation, because what they are doing is so inherently illegal and they are flying
26. completely under
27. the radar.
28.
29. It began in 2009. Everything was perfectly fine prior to 2009, and in fact it couldn't be
30. more perfect from
31. an AdSense employees perspective, but something changed.
32.
33. Google Bans and Ban Criteria
34.
35. Before December 2012:
36.
37. In the first quarter of 2009 there was a "sit-down" from the AdSense division higher ups
38. to talk about
39. new emerging issues and the role we (the employees in the AdSense division needed to play.
40. It was a
41. very long meeting, and it was very detailed and intense. What it boiled down to was that
42. Google had
43. suffered some very serious losses in the financial department several months earlier. They
44. kept saying
45. how we "needed to tighten the belts" and they didn't want it to come from Google employees
46. pockets.
47. So they were going to (in their words) "carry out extreme quality control on AdSense
48. publishers". When
49. one of my fellow co-workers asked what they meant by that. Their response was that AdSense
50. itself
51. hands out too many checks each month to publishers, and that the checks were too large and
52. that
53. needed to end right away. Many of the employees were not pleased about this (like myself).
54. But they
55. were successful in scaring the rest into thinking it would be their jobs and their money
56. that would be on
57. the line if they didn't participate. The meeting left many confused as to how this was
58. going to happen.
59. What did they mean by extreme quality control? A few other smaller meetings occur with
60. certain key
61. people in the AdSense division that furthered the idea and procedure they planned on
62. implementing.
63. There were lots of rumors and quiet talking amongst the employees, there was lots of

speculations,

40. some came true and some didn't. But the word was that they were planning to cut off a
41. large portion of
42. publisher's payments.

43. After that point there was a running gag amongst fellow co-workers where we would walk by
44. each other
45. and whisper "Don't be evil, pft!" and roll our eyes.

46. What happened afterwards became much worse. Their "quality control" came into full effect.
47. Managers

48. pushed for wide scale account bans, and the first big batch of bans happened in March of
49. 2009. The

50. main reason, the publishers made too much money. But something quite devious happened. We
51. were

52. told to begin banning accounts that were close to their payout period (which is why
53. account bans never

54. occur immediately after a payout). The purpose was to get that money owed to publishers
55. back to

56. Google AdSense, while having already served up the ads to the public.

57. This way the advertiser's couldn't claim we did not do our part in delivering their ads
58. and ask for money

59. back. So in a sense, we had thousands upon thousands of publishers deliver ads we knew
60. they were

61. never going to get paid for.

62. Google reaped both sides of the coin, got money from the advertisers, used the publishers,
63. and didn't

64. have to pay them a single penny. We were told to go and look into the publishers accounts,
65. and if any

66. publisher had accumulated earnings exceeding \$5000 and was near a payout or in the process
67. of a

68. payout, we were to ban the account right away and reverse the earnings back. They kept
69. saying it was

70. needed for the company, and that most of these publishers were ripping Google off anyways,
71. and that

72. their gravy train needed to end. Many employees were not happy about this. A few resigned
73. over it.

74. I did not. I stayed because I had a family to support, and secondly I wanted to see how
75. far they would

76. go.

77. From 2009 to 2012 there were many more big batches of bans. The biggest of all the banning
78. sessions

79. occurred in April of 2012. The AdSense division had enormous pressure from the company to
80. make up

81. for financial losses, and for Google's lack of reaching certain internal financial goals
82. for the quarter prior.

83. So the push was on. The employees felt really uneasy about the whole thing, but we were
84. threatened

85. with job losses if we didn't enforce the company's wishes. Those who voiced concerned or
86. issue were

87. basically ridiculed with "not having the company's best interest in mind" and not being
88. "team players".

89. Morale in the division was at an all-time low. The mood of the whole place changed quite
90. rapidly. It no

91. longer was a fun place to work.

92. The bans of April 2012 came fast and furious. Absolutely none of them were investigated,
93. nor were they

94. justified in any way. We were told to get rid of as many of the accounts with the largest
95. checks/payouts/earnings waiting to happen. No reason, just do it, and don't question it.

96. It was heart

97. wrenching seeing all that money people had earned all get stolen from them. And that's

what I saw it as,

it was a robbery of the AdSense publishers. Many launched appeals, complaints, but it was futile

because absolutely no one actually took the time to review the appeals or complaints. Most were simply

erased without even being opened, the rest were deposited into the database, never to be touched

again.

Several publishers launched legal actions which were settled, but Google had come up with a new policy

to deal with situations such as that because it was perceived as a serious problem to be avoided.

So they came up with a new policy.

After December 2012: The New Policy

The new policy; "shelter the possible problem makers, and fuck the rest" (those words were actually

said by a Google AdSense exec) when he spoke about the new procedure and policy for "Account

Quality Control".

The new policy was officially called AdSense Quality Control Color Codes (commonly called AQ3C by

employees). What it basically was a categorization of publisher accounts. Those publisher's that could

do the most damage by having their account banned were placed in a VIP group that was to be left

alone. The rest of the publishers would be placed into other groupings accordingly.

The new AQ3C also implemented "quality control" quotas for the account auditors, so if you didn't meet

the "quality control" target (aka account bans) you would be called in for a performance review.

There were four "groups" publishers could fall into if they reached certain milestones.

They were:

Red Group: Urgent Attention Required

Any AdSense account that reaches the \$10,000/month mark is immediately flagged (unless they are part

of the Green Group).

- In the beginning there were many in this category, and most were seen as problematic and were seen

as abusing the system by Google. So every effort was taken to bring their numbers down.

- They are placed in what employees termed "The Eagle Eye", where the "AdSense Eagle Eye Team"

would actively and constantly audit their accounts and look for any absolute reason for a ban. Even if

the reason was far-fetched, or unsubstantiated, and unprovable, the ban would occur. The "Eagle Eye

Team" referred to a group of internal account auditors whose main role was to constantly monitor

publisher's accounts and sites.

- A reason has to be internally attached to the account ban. The problem was that notifying the

publisher for the reason is not a requirement, even if the publisher asks. The exception: The exact

reason must be provided if a legal representative contacts Google on behalf of the account holder.

- But again, if a ban is to occur, it must occur as close to a payout period as possible with the most

amount of money accrued/earned.

121. Yellow Group: Serious Attention Required
122. Any AdSense account that reaches the \$5,000/month mark is flagged for review (unless they
are part of
123. the Green Group).
124. - All of the publisher's site(s)/account will be placed in queue for an audit.
125. - Most of the time the queue is quite full so most are delayed their audit in a timely
fashion.
126. - The second highest amount of bans occur at this level.
127. - A reason has to be internally attached to the account ban. Notifying the publisher for
the reason is not
128. a requirement, even if the publisher asks. The exception: The exact reason must be
provided if a legal
129. representative contacts Google on behalf of the account holder.
130. - But again, if a ban is to occur, it must occur as close to a payout period as possible
with the most
131. amount of money accrued/earned.
132.
133.
134. Blue Group: Moderate Attention Required
135. Any AdSense account that reaches the \$1,000/month mark is flagged for possible review
(unless they
136. are part of the Green Group).
137. - Only the main site and account will be place in queue for what is called a quick audit.
138. - Most bans that occur happen at this level. Main reason is that a reason doesn't have to
be attached to
139. the ban, so the employees use these bans to fill their monthly quotas. So many are simply
a random pick
140. and click.
141. - A reason does not have to be internally attached to the account ban. Notifying the
publisher for the
142. reason is not a requirement, even if the publisher asks.
143. - But again, if a ban is to occur, it must occur as close to a payout period as possible
with the most
144. amount of money accrued.
145.
146.
147. Green Group: VIP Status (what employees refer to as the "untouchables")
148. Any AdSense account associated with an incorporated entity or individual that can inflict
serious
149. damage onto Google by negative media information, rallying large amounts of anti-AdSense
support, or
150. cause mass loss of AdSense publisher support.
151. - Google employees wanting to use AdSense on their websites were automatically placed in
the Green
152. group. So the database contained many Google insiders and their family members. If you
work or
153. worked for Google and were placed in the category, you stayed in it, even if you left
Google. So it
154. included many former employees. Employees simply had to submit a form with site specific
details and
155. their account info.
156. - Sites in the Green Group were basically given "carte blanche" to do anything they
wanted, even if they
157. flagrantly went against the AdSense TOS and Policies. That is why you will encounter sites
with AdSense,
158. but yet have and do things completely against AdSense rules.
159. - Extra care is taken not to interrupt or disrupt these accounts.
160. - If an employee makes a mistake with a Green Level account they can lose their job. Since
it seen as
161. very grievous mistake.
162.
163.
164. New Policy 2012 Part 2:
165.
166. Internal changes to the policy were constant. They wanted to make it more efficient and

streamlined.

They saw its current process as having too much human involvement and oversight. They wanted it

more automated and less involved.

So the other part of the new policy change was to incorporate other Google services into assisting the

"quality control" program. What they came up with will anger many users when they find out. It

involved skewing data in Google Analytics. They decided it was a good idea to alter the statistical data

shown for websites. It first began with just altering data reports for Analytics account holders that also

had an AdSense account, but they ran into too many issues and decided it would be simpler just to skew

the report data across the board to remain consistent and implement features globally.

So what this means is that the statistical data for a website using Google Analytics is not even close to

being accurate. The numbers are incredibly deflated. The reasoning behind their decision is that if an

individual links their AdSense account and their Analytics account, the Analytics account can be used to

deflate the earnings automatically without any human intervention. They discovered that if an individual

had an AdSense account then they were also likely to use Google Analytics. So Google used it to their

advantage.

This led to many publishers to actively display ads, without earning any money at all (even to this day).

Even if their actual website traffic was high, and had high click-throughs the data would be automatically

skewed in favor of Google, and at a total loss of publishers. This successfully made it almost impossible

for anyone to earn amounts even remotely close what individuals with similar sites were earning prior

to 2012, and most definitely nowhere near pre-2009 earnings.

Other policy changes also included how to deal with appeals, which still to this day, the large majority

are completely ignored, and why you will rarely get an actual answer as to why your account was

banned and absolutely no way to resolve it.

The BIG Problem (which Google is aware of)

There is an enormous problem that existed for a long time in Google's AdSense accounts. Many of the

upper management are aware of this problem but do not want to acknowledge or attempt to come up

with a solution to the problem.

It is regarding false clicks on ads. Many accounts get banned for "invalid clicks" on ads. In the past this

was caused by a publisher trying to self inflate click-throughs by clicking on the ads featured on their

website. The servers automatically detect self-clicking with comparison to IP addresses and other such

information, and the persons account would get banned for invalid clicking.

But there was something forming under the surface. A competitor or malicious person would actively go

to their competitor's website(s) or pick a random website running AdSense and begin

multiple-clicking
208. and overclicking ads, which they would do over and over again. Of course this would
trigger an invalid
209. clicking related ban, mainly because it could not be proven if the publisher was actually
behind the
210. clicking. This was internally referred to as "Click-Bombing". Many innocent publishers
would get caught
211. up in bans for invalid clicks which they were not involved in and were never told about.
212.
213. This issue has been in the awareness of Google for a very long time but nothing was done
to rectify the
214. issue and probably never will be. Thus if someone wants to ruin a Google AdSense
publishers account,
215. all you would have to do is go to their website, and start click-bombing their Google Ads
over and over
216. again, it will lead the servers to detect invalid clicks and poof, they get banned. The
publisher would be
217. completely innocent and unaware of the occurrence but be blamed for it anyways.
218.
219. ----
220.
221. Their BIG Fear
222. The biggest fear that Google has about these AdSense procedures and policies is that it
will be publicly
223. discovered by their former publishers who were banned, and that those publishers unite
together and
224. launch an class-action lawsuit.
225.
226. They also fear those whose primary monthly earnings are from AdSense, because in many
countries if a
227. person claims the monthly amount to their tax agency and they state the monthly amount and
that they
228. are earning money from Google on a monthly basis, in certain nations technically Google
can be seen as
229. an employer. Thus, an employer who withholds payment of earnings, can be heavily fined by
230. government bodies dealing with labor and employment. And if these government bodies
dealing with
231. labor and employment decide to go after Google, then it would get very ugly, very quickly
..... that is on
232. top of a class-action lawsuit.

Exhibit E

1. I am the former Google employee that had leaked the information regarding AdSense. I am writing this second part as a response to certain misconceptions and confusions my previous leak has generated within articles and websites regarding it.
- 2.
3. Firstly, many have asked why I did not approach the leak in a more official capacity and bring my information to the attention of law enforcement. I want to make myself perfectly clear, my employment documents (such as the NDA's and non-competes) have very strict wording when it comes to releasing internal information in regards to processes and privy information. Google is not just some little company with little means of repercussion. They have gone after other internal leakers and were successful in damaging and ruining their lives on multiple levels. I do not want to be the next one.
- 4.
5. I honestly believe very little would have been done if I had brought the information solely to law enforcement, even on the federal level. Google would have simply lawyered up and made it go away (which they have done before). I felt it was better to release the information to the public and let the publishers who suffered the thefts bring forth a civil case against Google. I think a civil action against Google will carry more weight to it, and have a much stronger outcome to the public than a federal case would. The second reason would be that my identity would be front and center if I had approached law enforcement, and if Google were to have squash it immediately I would not have been able to anonymously release the information to the public as a backup plan. The third reason is fear. I do not want to be in the direct identifiable crosshairs of Google's legal department. I have taken very extreme measures to cover my tracks and identity. I know what they can do, and I know which services and servers do what. I have made sure everything leads to dead ends and that tracking will be virtually impossible. I wasn't hired by Google for my body. I know, right now, there is a team inside Google working very hard to track me down. They will scour every service and product they have access to in an attempt to find me. But they might as well quit right now, I am an insider and know the inner workings. I know the how's, the why's, and who's. It will be quite futile on their part, but I will still exercise extreme caution.
- 6.
7. In regards to my wording of the leaked information. I had planned and carefully thought out every word and every way I had said it. Everything was planned. The timing. The wording. Everything. It is not by accident, nor are there any accidental omissions. Of course I was not going to use terms only employees and former employees would know to explain everything. That would be simply foolish. I kept it informative and only mentioned a few select terms so that Google themselves would know I was who I said I was, because only an employee would have known. So everyone must know that I wrote it for the public, not for Google employees.
- 8.
9. Lastly, and more importantly, there has been lots of talk about my information not stating any names and that I did not provide any hard proof. Many individuals have brushed off my information as a falsehood solely due to that and claim that I have nothing substantial. I want you to go a reread my previous information release. Where did I exactly say I did not have proof or hard evidence?
- 10.
11. Because I do. I have communications. I have documents, I have files, I have lists, and I have names. I have all of it. Like I said from the beginning, I have carefully waited and carefully planned everything out. I do everything with reason and purpose. I have to be exceptionally careful in every way. So you ask why haven't I released it? The answer, if I release everything I have now, it will give Google too many possible avenues to discover my identity. Also doing thing such as publicly naming people and giving Google a pre-emptive look at what I have will only make them prepare for the class action lawsuit that will hit them. They won't be caught off guard and they will have time to come up with excuses and explanations in attempts to rid themselves of this issue. I do not want that to happen. I want the people to win. I want those who had money they earned, that was stolen from them, to get the right to fight for it on equal grounding. That is why I have chosen to only release it to the legal representatives of the class action lawsuit against Google in regards to AdSense. If those representative decide to release it, then it is up to them, but right now as it stands, I will not. I will carefully monitor the situation and wait to see how it forms and pick the right timing for the release of the evidence to the legal representatives. If several months go by and no class action lawsuit manifests, then I will have to selectively release a few key pieces of evidence to the public at large.

- 12.
13. The information and evidence I have is extensive and quite detailed, it will also paint a very different picture of what Google is really like to the public.
- 14.
- 15.
16. For those who have a difficult time believing my information I ask you to simply ask Google and their representatives the right questions related to my first release of information. Force them to answer those questions specifically. Ask them "is there a VIP status for publishers", ask them "why do account bans always seem to occur just before payouts", ask them "why do you fail to provide reasons and evidence of your allegations against publishers". Keep asking such questions, keep digging, and you will come to find out by yourselves that everything I have stated is completely true. Like many have said, it will be difficult for them to hide it now.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

KZ0FKKHQPCN'CUH PO GPV'EklN0f05/4+

(Place an "X" in One Box Only)

() SAN FRANCISCO/OAKLAND () SAN JOSE () EUREKA