

**Effective as of January 1st, 2018**  
**(Awin Affiliated Publisher)**

These Terms of Service describe your rights and responsibilities when using our Monotote e-commerce technology (the “Monotote System” as described below), and our responsibilities to you as a user of the Monotote System. These Terms of Service form a part of a binding contract between you (the on-line content publisher) and us the application provider (“Terms of Service” or “Agreement”). Please read this carefully. “We,” “our” and “us” refers to Shopping Cart Technologies, Inc. d/b/a “Monotote” or any of its affiliates, parents or subsidiaries, successors or assigns. “You” and “your” refers to the entity agreeing to the terms of this Agreement.

**Here is what we promise to provide for you:**

1. We will provide you access to unified shopping cart technology that allows publishers of content to enable content consumers to purchase goods and service featured or discussed on the website(s) offered by the publishers. The solution (the “Monotote System”) comprises: (i) server side components to be embedded in the websites maintained by you, the content publisher (“Server Components”); (ii) a hosted shopping cart system operated and maintained by us (“Unified Cart”); (iii) an online dashboard that you may use to monitor shopping cart activity and add new shoppable products that can be linked to website content (“Publisher Dashboard”). When end users access publisher’s websites and hover over or click shoppable products, the Unified Cart can be used to complete the shopping experience. The Unified Cart completes the transaction through a single checkout procedure. In doing so, it automatically places corresponding orders on websites of third party retailer owners and retailers (“retailer’s”) utilizing “Checkout Engines” that are customized to operate with the retailer’s’ websites. As a result of the automatic order placement on the retailer’s website, the retailer charges the user’s credit card and fulfills the order. Publisher must be approved by each retailer before products offered by those retailer’s may be purchased through the SCT System. **At the present time, for the purposes of this offer, Checkout Engines are available only for retailer’s that are part of the Awin affiliate marketing network.**

**If it breaks, we will try to fix it:**

2. Scheduled Available Time: We will use reasonable efforts to make the Monotote System available twenty-four (24) hours per day, seven (7) days a week, excluding: (a) Scheduled downtime for systems maintenance, including without limitation diagnostics, upgrades, and operations reconfiguration; and (b) Unscheduled downtime caused by other forces beyond the immediate control of Monotote, including software defects, hardware failures, or downtime caused by Customer’s network or the Internet.

3. Unscheduled Downtime: In the event that Monotote’s servers experience downtime, then you may choose to terminate this agreement with us, subject to the survival clause below. Termination of this agreement is your sole and exclusive remedy related to downtime.

4. [Intentionally Omitted]. Just making sure you are reading everything.

**Here is the limited license that we give you:**

5. Limited Licenses (free for now).

Subject to the terms of this Agreement, we hereby grant you a limited, temporary, non-exclusive, and fully revocable license through January 1st, 2019 to use the Monotote System in connection with retailer’s that are part of the Awin affiliate marketing network at no cost to you during this trial period. Your license shall be

the limited license expressly granted in this Section 5. We reserve all rights and licenses in and to the Monotote System not expressly granted to you under this Agreement.

License Restrictions. Unless otherwise provided for in this agreement, you may not, nor permit any third party to: (a) copy or use the Monotote System or its related technology or IP; (b) modify, translate or otherwise create derivative works of the Monotote System or its related technology or IP; (c) disassemble, decompile or reverse engineer the object code or source code of the Monotote System or its related technology or IP; (d) publish, or otherwise make available to any third party, any benchmark testing information or results; or (e) export or re-export Monotote System or its related technology or IP in violation of any United States law or regulation or law or regulation of any other jurisdiction.

**This stuff is pretty cool, and it's ours, not yours:**

6. Intellectual Property.

Our Intellectual Property: We own all intellectual property rights, title and interest in any ideas, concepts, know-how, documentation or techniques for all products and services we provide under this Agreement, and all technology associated with the Monotote System. You agree and acknowledge that no right or title to the Monotote System or any aspect of the Monotote System shall pass to you under this Agreement, except for the limited license described in Section 5 above.

**Customer data:**

7. Customer Data: All purchase transactions using Monotote System are between the purchaser and the retailer. The Monotote System does not store credit card data, but we do collect and maintain data on the names and addresses of each purchaser, the items purchased, and the dollar amount of each transaction. Data analytics are available through the Monotote System dashboard. Monotote also uses this information to provide reports to retailer's.

**For Your Use Only**

8. Password Allocation. We will provide you with log-in information to use the Monotote System. You will take such actions as are necessary in order for it to maintain the confidentiality of, and prevent the unauthorized use of, each password and key. You agree that you will notify us in writing if you have any reason to believe that an unauthorized party has gained access to a password or key. Use of the assigned password or key, whether or not authorized by you, will be solely your responsibility, and you agree to indemnify, defend, and hold us harmless from any claim, proceeding, loss or damages based upon any use, misuse, or unauthorized use of your passwords and keys.

**Free Trial Period**

9. No Payment Obligations.

Use of the amazing Monotote System is free through January 1st, 2019 (the "Term"). We will contact you a few weeks before the end of the Term to see what you think, and to see if you are interested in continuing to use the Monotote System, on whatever terms are then offered. There is no obligation.

**You can terminate at any time. No hard feelings.**

10. Termination.

This Agreement may be terminated by either party at any time upon written notice to the other party. Upon termination or expiration of this Agreement, all your rights to use the Monotote System and all other rights granted to you under this Agreement, automatically terminate immediately. Upon termination, you will discontinue its use of the Monotote System or provide verification of destruction related to any copy of any Confidential Information of Monotote that you may possess. "Confidential Information" is defined below.

### **Keep Confidential Information Confidential**

11. Each party ("Disclosing Party") may disclose "Confidential Information" to the other party ("Receiving Party") in connection with the Agreement, which is anything that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure including non-public business, product, technology and marketing information. Confidential Information of Customer includes Customer Data. If something is labeled "Confidential," that's a clear indicator to the Receiving Party that the material is confidential. Notwithstanding the above, Confidential Information does not include information that (a) is or becomes generally available to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

#### Protection and Use of Confidential Information

The Receiving Party will (a) take at least reasonable measures to prevent the unauthorized disclosure or use of Confidential Information, and limit access to those employees, affiliates and contractors who need to know such information in connection with the Agreement; and (b) not use or disclose any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement. Nothing above will prevent either party from sharing Confidential Information with financial and legal advisors; provided, however, that the advisors are bound to confidentiality obligations at least as restrictive as those in the Agreement.

#### Compelled Access or Disclosure

The Receiving Party may access or disclose Confidential Information of the Disclosing Party if it is required by law; provided, however, that the Receiving Party gives the Disclosing Party prior notice of the compelled access or disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the access or disclosure. Without limiting the foregoing, please review the Data Request Policy for details on how requests may be made for the disclosure of Customer Data and how we will handle those requests. If the Receiving Party is compelled by law to access or disclose the Disclosing Party's Confidential Information, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing access to such Confidential Information as well as the reasonable cost for any support provided in connection with the Disclosing Party seeking a protective order or confidential treatment for the Confidential Information to be produced.

### **Limitation of Liability and Other Lawyer Stuff.**

12. IN NO EVENT WILL MONOTOTE' LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE SUM OF FEES PAID BY YOU FOR THE SERVICES GIVING RISE TO THE LIABILITY DURING THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE DATE THE ALLEGED LIABILITY AROSE. IN NO EVENT WILL MONOTOTE, ITS LICENSORS, OR ITS SUPPLIERS HAVE ANY LIABILITY TO YOU OR YOUR BUSINESS PARTNERS FOR ANY CONSEQUENTIAL OR INCIDENTAL LOSSES, INCLUDING BUT NOT LIMITED TO LOST PROFITS,

LOSS OF BUSINESS, LOSS OF USE OR OF DATA, ANY UNAUTHORIZED ACCESS TO, ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S OR TRADING PARTNERS' COMPUTERS, COMPUTER SYSTEMS, DATA FILES, PROGRAMS OR INFORMATION, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY AND WHETHER OR NOT MONOTOTE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES AGREE THAT THE TERMS IN THIS LIMITATION OF LIABILITY SECTION REPRESENT A REASONABLE ALLOCATION OF RISK.

#### **Other Stuff.**

13. Disaster Recovery: We will make commercially reasonable efforts to create and protect back-up copies of customer data. Subject to the above, we shall have no liability or duty of indemnification related to lost or corrupt data. This limitation of liability eliminates any duty or liability on our part related to lost or corrupt data resulting in part or in whole from third-party software or networking goods or services or from actions or events outside of its control.

14. Warranty. Mutual Warranty: Each party warrants to each other that it has the right and authority to enter into, and to grant the rights and perform the obligations described in, this Agreement. Limited Warranty. Each party will perform its obligations hereunder in a good and workmanlike manner. The sole remedy and exclusive liability for breach of this warranty shall be re-performance of the breaching party's obligations or termination of the Agreement.

15. We specifically do not warrant that the Monotote System will meet all of your requirements, that the use of the Monotote System will be uninterrupted or error-free, that patches or workarounds will be provided, or that errors will be corrected in updates, or in every case, or that we will detect every bug in the system, or that the systems will operate without error after testing. We disclaim any and all liability resulting from or related to any breach of internet security or disruption of your connections to the Internet, due to any reason beyond our control.

15. Exclusive Warranty: THE ABOVE WARRANTY IS EXCLUSIVE. WE MAKE NO OTHER WARRANTY OF ANY KIND, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE RELATING TO THE TERMS OF THE SOFTWARE, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT.

16. As-Is Basis: THE MONOTOTE SYTEM AND RELATED SOFTWARE AND SERVICES ARE PROVIDED TO CUSTOMER UNDER THIS AGREEMENT ON AN "AS-IS" BASIS. WE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT.

17. Indemnity

You Indemnify Us

You will defend us (collectively, the "Monotote Indemnified Parties") from and against any and all third party claims, actions, suits, proceedings, and demands arising from or related to your or any of your authorized users' violation of the Agreement (a "Claim Against Us") or infringement by you of a third party right, and will indemnify the Monotote Indemnified Parties for all reasonable attorney's fees incurred and damages and other costs finally awarded against a Monotote Indemnified Party in connection with or as a result of, and for amounts paid by a Monotote Indemnified Party under a settlement you approve in connection with, a Claim Against Us. We must provide you with with prompt written notice of any Claim Against Us and allow you the

right to assume the exclusive defense and control, and cooperate with any reasonable requests assisting your defense and settlement of such matter.

We indemnify you:

We will indemnify you from and against any loss, damage, liability or expense (including, but not limited to reasonable attorney's fees) incurred by or awarded against you, to the extent that it is based upon a claim that the Monotote System as provided by us to you under this Agreement and used within the scope of this Agreement, infringes any U.S. patent or copyright issued as of the Effective Date, or incorporates any misappropriated trade secrets. Our obligations to you under this section shall only be valid provided that you: (a) promptly notify us in writing of the claim; (b) grant us sole control of the defense and settlement of the claim, provided that we will not settle a pending matter without first notifying you; and (c) provide us with all assistance, information and authority required for the defense and settlement of the claim.

#### Limitations on Indemnifications

Notwithstanding anything contained in the two preceding sections, (a) an indemnified party will always be free to choose its own counsel if it pays for the cost of such counsel; and (b) no settlement may be entered into by an indemnifying party, without the express written consent of the indemnified parties (such consent not to be unreasonably withheld), if (i) the third party asserting the claim is a government agency, (ii) the settlement arguably involves the making of admissions by the indemnified parties, (iii) the settlement does not include a full release of liability for the indemnified parties, or (iv) the settlement includes terms other than a full release of liability for the indemnified parties and the payment of money.

We will have no indemnification obligation for any claim of infringement or misappropriation to the extent that it results in whole or part from: (a) modification to the Monotote System made by a party other than us; (b) failure of you to use updated or modified Monotote System provided by Monotote to avoid a claim of infringement or misappropriation; (c) combination of the Monotote with other systems, products, processes or materials to the extent that such claim would have been avoided without such combination use of the Monotote System; or (d) compliance by us with designs, plans or specifications furnished by or on behalf of you.

18. Amendments. The terms and conditions of this Agreement, may not be changed except by an amendment in writing, which references this Agreement and is signed by an authorized officer of each party.

19. Waiver. No failure or delay by either party in exercising any right or remedy under this Agreement shall operate or be deemed as a waiver of any such right or remedy.

20. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

21. Forum Selection. The parties agree that any dispute or controversy arising out of or relating to any interpretation, construction, performance or breach of this Agreement, shall be settled by litigation in state or federal courts located in the borough of Manhattan in the State and City of New York, and expedited arbitration to be held in the borough of Manhattan, New York City, New York, and the parties submit to jurisdiction to the Courts of the State of New York. The prevailing party in any litigation between the parties shall be entitled to the reasonable costs of the litigation, including reasonable attorneys' fees incurred in litigating and enforcing the agreement and judgment against the other party.

22. Notices. All notices required under this Agreement must be in writing and refer to the title and Effective Date of this Agreement. Notices shall be effective upon (a) actual delivery to the other party, if delivered in person, or by facsimile, or by national overnight courier; or (b) five business days after being mailed via U.S. postal service, postage prepaid. All notices shall be sent to the address stated in this

Agreement or at such other address as either party may provide by advance written notice in accordance with this subsection.

23. Independent Entities. The parties are independent entities. Neither party shall be deemed to be an employee, agent, partner, joint venturer or legal representative of the other for any purpose, and neither shall have any right, power or authority to create any obligation or responsibility on behalf of the other, solely as a result of this Agreement.

24. Severability. Any provision of this Agreement that is held to be unenforceable in any jurisdiction shall be ineffective only as to that jurisdiction, and only to the extent of the unenforceability of such provision without invalidating the remaining provisions hereof.

25. Complete Understanding: This Agreement, including all Schedules, Exhibits and Attachments, constitutes the final and complete agreement between the parties regarding the subject matter hereof, and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written.

27. Survival. The respective rights and obligations under the Sections 6, 8, 10, 11, 12 and 17 shall survive the termination or expiration of this Agreement.