

GDPR ANNEX

This GDPR Annex forms part of the Publisher Standard Terms.

1. INTERPRETATION AND APPLICATION

- 1.1. The definitions and rules of interpretation set out in the Standard Terms will apply in this GDPR Annex, unless otherwise defined below.
- 1.2. The following definitions and rules of interpretation apply in this GDPR Annex:
 - 1.2.1. "Plugin" means tracking tags, adtech and other software owned or operated by a third party for embedding into, or integrating with, any websites, apps, emails, digital services or other digital properties, for the purposes of: (i) revealing whether the content on that property has been accessed or used; (ii) collecting data on the use of, or any users of, that property; (iii) collecting data from, or submitted to, that property; (iv) enabling the provision of additional services to users of that property; or (v) delivering content or functionality;
 - 1.2.2. "Plugin Integration" means the Processing of Personal Data by AWIN under the Agreement (and any related or ancillary agreements between the parties and any third parties) for the purposes of facilitating the integration of the Publisher Service with a Plugin operated by a third party, by use of the AWIN technology;
 - 1.2.3. "Subprocessor" any person (excluding an employee of either party) appointed by or on behalf of either party to Process Personal Data on behalf of such party or otherwise in connection with the Agreement.
 - 1.2.4. The terms "**Controller**", "**Processor**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Process**" and "**Processing**" have the meanings given to them in the GDPR.
- 1.3. This GDPR Annex applies to the extent that the parties are Processing Personal Data in connection with the Agreement.
- 1.4. In the event of inconsistencies between the provisions of this GDPR Annex and the Standard Terms this GDPR Annex shall take precedence, unless explicitly agreed otherwise in writing.

2. DATA PROTECTION AND COOKIES

- 2.1. AWIN and the Publisher will comply with their respective obligations under Data Regulation. Each party will provide the other party any co-operation reasonably requested to enable the other party's compliance with this GDPR Annex.

General

- 2.2. In accordance with Data Regulation, the Publisher will obtain the prior, freely given, specific informed, unambiguous and revocable consent of any Visitors to any cookies served by AWIN on the Visitor as a result of a Click.
- 2.3. The Publisher will not provide any Personal Data to AWIN without AWIN's prior written consent, unless anticipated by AWIN in its ordinary operation of the Network.

2.4. In respect of any Processing under the Agreement for which AWIN and the Publisher are joint Controllers (whether together, or with any Advertiser):

2.4.1. Each party will provide the other party any co-operation reasonably requested to enable the other party's compliance with Data Regulation;

Transparency

2.4.2. The Publisher shall take appropriate measures to provide Data Subjects with information about how Personal Data is being processed by or on behalf of the Publisher, which shall at a minimum include all the information required by Articles 13, 14 and 26 of the GDPR, in a concise, transparent and easily accessible form, using clear and plain language ("Publisher Fair Processing Notice");

2.4.3. AWIN shall take appropriate measures to provide Data Subjects with information about how Personal Data is being Processed by or on behalf of AWIN, which shall at a minimum include all the information required by Articles 13, 14 and 26 of the GDPR, in a concise, transparent and easily accessible form, using clear and plain language ("Awin Fair Processing Notice");

2.4.4. The Publisher shall include a hyperlink to the current AWIN Fair Processing Notice ([link](#)) in the Publisher Fair Processing Notice.

Personnel

2.4.5. Each party shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to Personal Data, ensuring in each case that access is:

2.4.5.1. strictly limited to those individuals who need to know and/or access the relevant Personal Data; and

2.4.5.2. as strictly necessary for the purposes of the Agreement and to comply with Data Regulation in the context of that individual's duties.

2.4.6. Each party shall ensure that all individuals referred to in Clause 2.4.5 are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

Security and Confidentiality of Data

2.4.7. Each party shall in relation to the Personal Data, implement appropriate technical and organisational measures to ensure an appropriate level of security, including, as appropriate, the measures referred to in Article 32(1) of the GDPR. In doing so, each party shall take into account:

2.4.7.1. the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing; and

2.4.7.2. the risk of varying likelihood and severity for the rights and freedoms of natural persons.

2.4.8. In assessing the appropriate level of security, each party shall in particular take account of the risks that are presented by Processing, including from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise Processed.

Subprocessors

2.4.9. With respect to a proposed Processor or Subprocessor, each party shall:

2.4.9.1. before the Processor or Subprocessor first Processes Personal Data, carry out adequate due diligence to ensure that the Processor or Subprocessor is capable of providing the level of protection for Personal Data required by applicable Data Regulation; and

- 2.4.9.2. ensure that the arrangement with such a Processor or Subprocessor, is governed by a written contract including terms meet the requirements of Article 28(3) of the GDPR.

Data Subject Rights

- 2.4.10. Each party shall fulfil their obligations to respond to requests to exercise Data Subject rights under the Data Regulation. Unless otherwise agreed in writing by between the parties, the first recipient of any request by a Data Subject to exercise his or her rights under Data Regulation shall be primarily responsible for its response. Each party will provide the other party any co-operation reasonably requested to enable the other party's compliance with this clause.

Personal Data Breach

- 2.4.11. Each party shall:
 - 2.4.11.1. notify the other party without undue delay upon becoming aware of a Personal Data Breach affecting Personal Data ("Network Data Breach"); and
 - 2.4.11.2. provide the other party with sufficient information to allow it to meet any obligations to report or inform Data Subjects of the Network Data Breach under or in connection with the Data Regulation;
 - 2.4.11.3. meaningfully consult with the other party in respect of the external communications and public relations strategy related to the Network Data Breach;
 - 2.4.11.4. subject to 2.4.11, not notify any data protection regulator of the Network Data Breach without having obtained prior written approval of the other party; and
 - 2.4.11.5. not issue a press release or communicate with any member of the press in respect of the Network Data Breach, without having obtained prior written approval by the other party.
- 2.4.12. The notification set out in Clause 2.4.11.1 shall as a minimum:
 - 2.4.12.1. describe the nature of the Network Data Breach, the categories and numbers of Data Subjects concerned, and the categories and numbers of Personal Data records concerned;
 - 2.4.12.2. describe the likely consequences of the Network Data Breach; and
 - 2.4.12.3. describe the measures taken or proposed to be taken to address the Network Data Breach.
- 2.4.13. The Publisher shall co-operate with AWIN and take such reasonable commercial steps as are directed by AWIN to assist in the investigation, mitigation and remediation of each Network Data Breach.

Data Transfers

- 2.4.14. Neither party shall transfer Personal Data to countries outside of the EEA in breach of applicable Data Regulation.

- 2.5. To the extent that the Publisher is a Data Controller and AWIN is a Data Processor, (or, as applicable, the Publisher is a Data Processor and AWIN is a Subprocessor), including in respect of any Plugin Integration:

- 2.5.1. the Publisher warrants and undertakes for the Term that any Processing under the Agreement, undertaken by AWIN or any Advertiser acting as a Data Processor on behalf of the Publisher acting as a Data Controller, including any Processing of Personal Data relating to the Publisher and any Authorised Users, complies with Data Regulation and that it holds any rights or consents necessary for the transfer outside of the EEA of Personal Data by AWIN or any Advertiser;

2.5.2. AWIN will:

- 2.5.2.1. Process Personal Data for the purposes of Plugin Integration only, or otherwise in accordance with the Publisher's instructions, including in respect of the deletion or return of Personal Data;
- 2.5.2.2. make available to the Publisher requested information in respect of Personal Data, on at least 30 days prior written notice and during normal business hours, necessary to demonstrate compliance with this Clause 2.5.2, including to allow for and contribute to reasonable audits, conducted by the Publisher or the Publisher's designated auditor (such designated auditors being subject to AWIN's prior written approval);
- 2.5.2.3. promptly notify the Publisher if it receives any request from a Data Subject to exercise his or her rights under Data Protection Law, and provide the Publisher any co-operation reasonably requested to enable the Publisher to respond to such requests;
- 2.5.2.4. engage Subprocessors in accordance with Article 28(4) of the GDPR, and the Publisher hereby grants a general authorisation to AWIN under Article 28(2) of the GDPR to engage Subprocessors. AWIN shall inform the Publisher of any intended changes concerning the addition or replacement of Subprocessors;
- 2.5.2.5. comply with clauses 2.4.5 – 2.4.8 and 2.4.11 – 2.4.14.

2.6. To the extent that AWIN is a Data Controller and the Publisher is a Data Processor, (or, as applicable, AWIN is a Data Processor and the Publisher is a Subprocessor) the Publisher will:

- 2.6.1. Process Personal Data only AWIN's documented instructions, including in respect of the deletion or return of Personal Data;
- 2.6.2. assist AWIN in all respect necessary to enable AWIN to comply with Data Regulations;
- 2.6.3. promptly notify AWIN if it receives any request from a Data Subject to exercise his or her rights under Data Protection Law, and provide AWIN any co-operation reasonably requested to enable AWIN to respond to such requests;
- 2.6.4. make available to AWIN all requested information in respect of Personal Data, including, on at least 30 days prior written notice and during normal business hours, permitting AWIN or any relevant Advertiser, or any of their auditors or advisors, to attend the Publisher's premises in order to inspect the Publisher's systems and records to the extent determined by AWIN or any relevant Advertiser to be necessary to demonstrate the Publisher's compliance with this Addendum; and
- 2.6.5. comply with clauses 2.4.4– 2.4.9 and 2.4.11 – 2.4.14.

2.7. The Publisher shall not use any reports generated by use of the Platform to create Visitor profiles, as defined under GDPR.

2.8. The Publisher will not do or omit to do any act which may cause AWIN to be in breach of any of its obligations under the Data Regulation.

3 GENERAL

BREXIT

- 3.1 In the context of the United Kingdom's withdrawal from the European Union, should the transfer of Personal Data to the UK constitute a transfer of Personal Data to a third country pursuant to Article 44 of the GDPR, in the absence of an adequacy decision pursuant to Article 45(3):

3.1.1 the parties shall be deemed to have entered into standard contractual clauses issued by the European Commission, from time to time, for data transfers from Controllers established in the EEA to:

3.1.1.1 Controllers established outside the EEA; and/or

3.1.1.2 Processors established outside the EEA;

immediately on written notice to the Publisher (including by the posting of a notice on the Interface), on terms AWIN thinks fit, provided that such terms shall satisfy the requirements of an appropriate safeguard pursuant to Article 46 of the GDPR.

Changes

3.2 AWIN may on at least 7 days' written notice to the Publisher (including by the posting of a notice on the Interface) make binding variations to the Agreement, which AWIN reasonably considers to be necessary to address the requirements of Data Regulation.

4 LIMITATION OF LIABILITY

4.1 Each party shall be liable for any breaches of Data Regulation for which they are responsible and accordingly there shall be no joint liability between the parties in respect of such breaches.