

STANDARD TERMS FOR PUBLISHERS ("STANDARD TERMS")

1. JOINING THE NETWORK

- 1.1 By submitting an Application Form, or by accessing the Interface, the Person named in the Application Form (the "**Publisher**" also known as "Affiliate") is offering to participate in the ShareASale and/or AWIN Networks, and market Advertisers and their Products, in accordance with the Application Form and these Standard Terms. By submitting an Application Form, the Publisher is also agreeing to the terms of AWIN's privacy policy, which can be found here: <https://www.awin.com/us/legal/privacy-policy>
- 1.2 Submission of the Application Form may require payment of a small deposit ("**Sign Up Deposit**") by the Publisher, as set out on the Application Form.
- 1.3 Acceptance of the Application Form is subject to the sole discretion of AWIN Inc., ("**AWIN**") of 8 Marketplace, Suite 600, Baltimore, MD, 21202, with Employer Identification Number 99-0360504 on its behalf as well as its Group Companies, including, without limitation, Shareasale.com of 15 W. Hubbard Street, Suite 500, Chicago IL 60654. Acceptance or rejection of the Application Form will be notified to the proposed Publisher by email.
- 1.4 On acceptance of the Application Form by AWIN, the Application Form, these Standard Terms and the CCPA Annex (if applicable) will together constitute a legally binding "**Agreement**" entered into by AWIN and the Publisher. On rejection of the Application Form, no agreement will be formed.
- 1.5 The Publisher is the operator of a website, application or service (including email service), or is a Subnetwork. By entering this Agreement with AWIN, the Publisher will join the Network to market Advertisers or their Products.
- 1.6 This Agreement prevails over any terms supplied by the Publisher.
- 1.7 Any individual contracting on his or her own behalf warrants that he or she is aged 18 or over. Any individual completing the Application Form on behalf of a proposed Publisher warrants that he or she has all necessary authority to bind that proposed Publisher.

2. DEFINITIONS

- 2.1 The following definitions and rules of interpretation apply in this Agreement:

"**Action**" means a Sale, Lead, Click, Ad Impression, or other event, that has been specified as eligible for remuneration by the respective Advertiser under its Program Terms, on which commissions may be based under this Agreement;

"**Ad Impression**" means a display of an advertisement of an Advertiser by the Publisher, as reported by the Tracking Code only;

"**Advertiser**" (also known as "Merchant") means a Person which has agreed with AWIN or a AWIN Group Company to join the Network to be marketed, and/or to have its Products marketed;

"**Advertiser Materials**" means any trade marks, advertising content, images, text, video, data or other material provided by or on behalf of an Advertiser to AWIN, the Publisher or a Subpublisher;

“**Advertiser Program**” means an ongoing affiliate marketing program of an Advertiser on the Network, for the promotion of the Advertiser or its Products in accordance with this Agreement and the Program Terms;

“**Advertiser URLs**” means, from time to time, any websites, apps or services of an Advertiser offering Products and to which the Publisher may link;

“**Advertising Standards**” means any applicable advertising laws, regulations or standards, data laws relating to advertising (including the Children’s Online Privacy Protection Act), including without limitation any FTC Guidance, any generally accepted self-regulatory codes of practice, and any related guidance or best practice advice; “**Application Form**” means the registration form by which operators of websites, applications, technologies or services apply to participate in the Network;

“**Approved Lead**” means a Lead approved by an Advertiser in accordance with clause 5;

“**Approved Sale**” means a Sale approved by an Advertiser in accordance with clause 5;

“**Authorized User**” means an individual permitted to view, or view and operate, the Publisher Account on behalf of the Publisher, by its individual Authorized User Account, as set out in clause 3;

“**Authorized User Account**” means the account of an individual on the Interface, permitted to view, or view and operate, the Publisher Account on behalf of the Publisher, as set out in clause 3;

“**AWIN**” has the meaning given in clause 1.3;

“**Awin Network**” means the marketing network of publishers and advertisers operated by AWIN;

“**Bonus**” means an ad hoc payment to the Publisher by an Advertiser in return for a specific promotion or other marketing activity;

“**Business Day**” means a day other than a Saturday, Sunday or national public holiday in England;

“**Change of Control**” means a change in the beneficial ownership of more than 50% of the issued share capital of a company or a change in the majority of the Persons with legal power to direct or cause the direction of the general management of a company;

“**Click**” means the intentional and voluntary following of a Link by a Visitor as part of marketing services as reported by the Tracking Code only;

“**Code of Conduct**” means AWIN’s code of conduct for publishers at <https://www.awin.com/us/legal/code-of-conduct> as may be amended or updated by AWIN at its discretion on notice to the Publisher;

“**Commission**” means the amount payable to the Publisher in return for marketing an Advertiser and its Products, in accordance with that Advertiser’s Program Terms;

“**Confidential Information**” means any information disclosed by or relating to a party, including: information arising during the Term of this Agreement; information about a party’s business affairs; information about a party’s operations, products or

trade secrets; information about a party's technology (including any know-how and source code) and any derivatives of any part of any of them and which (i) is marked or identified as confidential; or (ii) would be regarded as confidential by a reasonable business person;

"**CPA**" means a Commission earned per Approved Sale;

"**CPC**" means Commission earned per valid Click;

"**CPL**" means a Commission earned per Approved Lead;

"**CPM**" means a Commission earned per one thousand Ad Impressions;

"**Data Regulation**" means any applicable data protection, privacy or similar laws that apply to data processed in connection with this Agreement, including for EU citizens any regulations implementing the Data Protection Directive 95/46/EC (the "**Directive**") or GDPR (as applicable) or Privacy and Electronic Communications Directive 2002/58/EC and for US citizens, FTC Guidance, self-regulatory principles set forth by the Digital Advertising Alliance and other US state and federal legislation relating to data privacy and security;

"**Effective Date**" means the date of acceptance of the Application Form by AWIN;

"**FTC Guidance**" means the published cases and guidelines from the United States Federal Trade Commission, including without limitation the guidance on substantiation of claims, privacy, data security, native advertising and disclosure guidance for influencers and spokespeople.

"**GDPR**" means the EU General Data Protection Regulation 2016/679.

"**Group Company**" means any holding company or subsidiary of a party or any of its holding companies. A company is a "**subsidiary**" of another company, its "**holding company**", if that other company (i) holds a majority of the voting rights in it, or (ii) is a member of it and has the right to appoint or remove a majority of its board of directors, (iii) or is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it;

"**Intellectual Property Rights**" means all copyrights and related rights, patents rights to inventions, utility models trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights (including any database rights in the Network), topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"**Interface**" means the intranet and software platforms operated by AWIN or an AWIN Group Company, to provide the Services and any functionality accessed or made available through such platform;

"**Lead**" means a 'sales lead' of an Advertiser generated in the Tracking Period, as reported by the Tracking Code only;

"**Link**" means a hyperlink from a Promotional Space to an Advertiser URL;

“**Network**” means the marketing network of publishers and advertisers operated by AWIN and AWIN Group Companies to facilitate, amongst other things, affiliate and performance marketing. Where reference in this Agreement is not specifically made to the AWIN Network or the ShareASale Network, Network shall be interpreted to cover both networks;

“**Network Fee**” means the fee payable to AWIN or an AWIN Group Company, calculated as an override fee of an amount equal to a specified percentage of any total Commissions and Bonuses due, or on such other basis as may be agreed by AWIN and an Advertiser;

“**Product**” means a product, service or equivalent offered by an Advertiser on any Advertiser URL;

“**Program Terms**” means any terms and conditions, or other requirements applied by an Advertiser to the participation in its Advertiser Program;

“**Promotional Space**” means any advertising inventory appearing on the Publisher Service, or means of delivering Advertiser Materials enabled by the Publisher Service;

“**Publisher Account**” means the respective account of the Publisher on the Interface;

“**Publisher Service**” means a website, application or service operated by the Publisher capable of marketing Advertisers and their respective Products;

“**Owner**” means a single Authorized User with full access to, and control of, the Publisher Account and which is at all times authorized to act on behalf of the Publisher and bind the Publisher;

“**Sale**” means the agreed purchase of a Product by a Visitor in the Tracking Period, as reported by the Tracking Code only;

“**Services**” means the services or assistance provided by AWIN and any AWIN Group Company, including, without limitation, ShareASale, under this Agreement;

“**ShareASale Network**” means the marketing network of publishers and advertisers operated by ShareASale;

“**Subpublisher**” means the operator of a website, application or service, which has agreed with the Subnetwork to market advertisers or their products;

“**Subnetwork**” means the operator of a marketing network of further publishers to facilitate, amongst other things, affiliate and performance marketing, which has entered this Agreement to join the Network to market advertisers or their products as a Publisher;

“**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 this Agreement.

“**Suspension**” means the suspension by AWIN or any AWIN Group Company of the provision of the Services to the Publisher for a period of time, including the following: (i) preventing the Publisher from accessing the Interface; (ii) withholding payments otherwise due to the Publisher; (iii) ceasing to track Actions; (iv) removing any Advertiser Materials from the Publisher Service and “**Suspend**” shall

be interpreted accordingly;

“**Term**” means the term of this Agreement from the Effective Date until its termination or expiry in accordance with clause 14 or 17.4;

“**Tracking Code**” means the AWIN software code (from time to time) for the recording of, amongst other things, web traffic and Actions;

“**Tracking Period**” means the period of time in which the Actions of a Visitor are attributed to the Publisher and, subject to the Program Terms, generate Commissions for the Publisher;

“**Validation Period**” means the period of time during which Advertisers may approve or decline Sales and Leads; and

“**Visitor**” means any Person who follows a Link.

2.2 In this Agreement:

2.2.1 any meanings given to terms in the attached Application Form shall apply to these Standard Terms;

2.2.2 the terms “**Data Controller**”, “**Data Processor**”, “**Data Subject**”, “**Personal Data**”, “**Personal Data Breach**”, “**Process**” and “**Processing**” have the meanings given to them in GDPR;

2.2.3 “**include**” or “**including**” is without limitation;

2.2.4 the singular will include reference to the plural and vice versa;

2.2.5 a “**Person**” includes an individual, company, partnership or unincorporated association;

2.2.6 a statute, order, regulation or other similar instrument will include any amendments to it or replacements of it; and

2.2.7 “**writing**” and “**written**” includes emails but not faxes.

2.3 If there is a conflict between the Application Form, the Standard Terms and the CCPA Annex (if applicable), the Application Form shall prevail, followed by the Standard Terms.

3. PROVISION AND USE OF THE SERVICE AND THE INTERFACE

3.1 Subject to the Publisher's compliance with this Agreement, AWIN will provide to the Publisher:

3.1.1 the Services; and

3.1.2 access to the Interface.

3.2 AWIN may change any aspect of the Interface at its sole discretion.

3.3 On the Effective Date, the Publisher shall:

3.3.1 register a Publisher Account; and

3.3.2 nominate an Authorized User as Owner of that Publisher Account.

- 3.4 Each Publisher Account may have only one Owner, and must have an Owner at all times. Each Publisher Account may have a reasonable number of Authorized Users.
- 3.5 The Owner may assign its Owner status to another Authorized User via the Interface at any time.
- 3.6 To the extent enabled by the Interface, Authorized Users shall be allocated permissions to view, or view and operate, the Publisher Account by the Owner, acting on behalf of the Publisher. Authorized Users may, on behalf of the Publisher, also allocate permissions to view, or view and operate, the Publisher Account, provided that no Authorized User may grant greater permissions than they themselves hold. The Owner may, at any time, withdraw the permission of any Authorized User to view and/or operate the Publisher Account.
- 3.7 The Publisher undertakes that:
 - 3.7.1 the Owner, shall remain authorized to act on behalf of the Publisher and bind the Publisher;
 - 3.7.2 all Authorized Users are permitted to view, or view and operate, the Publisher Account in accordance with any permissions granted on the Interface, which shall be kept up to date by the Publisher;
 - 3.7.3 it shall use best endeavours to ensure that the Owner and all Authorized Users shall:
 - (a) access the Interface in their own name under their own Authorized User Account; and
 - (b) keep any passwords confidential.
- 3.8 The Publisher shall:
 - 3.8.1 ensure the proper functioning and maintenance of all Links;
 - 3.8.2 provide Advertisers and AWIN with full and clear instructions as to the Advertiser Material it may reasonably require for the purposes of the promotion of an Advertiser or its Products in accordance with this Agreement and the Program Terms;
 - 3.8.3 provide Advertisers reasonable access to information the Advertiser may require to operate the Advertiser Program; and
 - 3.8.4 remain primarily liable for the acts and omissions of all Subpublishers.
- 3.9 AWIN shall not be liable for any losses or damages suffered by the Publisher due to the disclosure of any Authorized User Account passwords.
- 3.10 The Publisher shall remain primarily responsible and liable for all activities occurring under any of the Authorized User Accounts and the acts or omissions of any Authorized User.
- 3.11 If the Publisher suspects that a third party has gained unauthorized access to access data, the Publisher shall inform AWIN immediately by sending an e-mail to compliance@awin.com or such other e-mail as may be notified to the Publisher from time to time.
- 3.12 AWIN may Suspend or withdraw any Authorized User Accounts at its discretion, or

on request by the Publisher.

3.13 Under this Agreement AWIN, or any AWIN Group Company may, on behalf of AWIN:

3.13.1 provide any aspect of the Services or the Interface (including the granting of sublicenses and licenses under clause 10);

3.13.2 enjoy any benefit, or exercise any right;

3.13.3 satisfy any of AWIN's obligations.

4. MARKETING

4.1 The Publisher may request to market Advertisers or their Products at their discretion by applying to participate in the Advertiser Program. Advertisers may approve or refuse such requests at their discretion. The Publisher may only market an Advertiser or its Products under this Agreement with the Advertiser's continued approval, unless specifically enabled by the proper use of the Interface.

4.2 Advertisers may apply Program Terms at their discretion, which shall become effective on notice to the Publisher, including by publication on the Interface. Advertisers may change their Program Terms at any time. The Publisher is solely responsible for ensuring it is aware of any changes to the Program Terms.

4.3 Subject to the Publisher's compliance with this Agreement and the Program Terms, and the continued approval of the respective Advertiser, AWIN will provide to the Publisher the Advertiser Materials.

4.4 AWIN, however, is not obliged to review any Advertiser Material or check their legality or accuracy. A Publisher admitted to the Advertiser Program may publish the Advertiser Materials through its Publisher Service at its discretion and use them solely to the extent permitted under this Agreement and the Program Terms.

4.5 AWIN may deactivate any Links on request of the respective Advertiser, or at its sole discretion.

4.6 The Publisher shall remove any Advertiser Materials from the Publisher Service immediately on request of either the Advertiser or AWIN.

4.7 AWIN will use reasonable endeavors to procure that Advertisers comply with any terms and conditions, or other requirements, applied by the Publisher to its promotion of Advertisers or their Products.

5. TRACKING AND VALIDATION

5.1 The Tracking Code and Program Terms as interpreted by AWIN will be on the sole bases for recording and determining Actions and Commissions and for tracking. No other means of recording or determining Actions or Commissions shall be used under this Agreement, notwithstanding any agreement or arrangement between the Publisher and any Advertiser to the contrary.

5.2 Sales, Clicks and Leads will only be attributed to the Publisher where the Tracking Code records that the Publisher was responsible for the most recent referral of the Visitor to the Advertiser URL prior to that Sale or Lead, unless expressly agreed otherwise between the parties or specified otherwise by the Advertiser in the respective Program Terms, and in each case subject to any communicated "cookie hierarchy" or "commission hierarchy".

5.3 Advertisers may approve or decline Sales, Clicks and Leads at their discretion, subject to the applicable Program Terms.

6. ACTIONS, COMMISSIONS AND BONUSES

6.1 The amount of any Commissions is as may be displayed on the Interface. CPA Commissions in respect of Approved Sales will be determined as either:

6.1.1 a percentage of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface; or

6.1.2 a fixed amount, irrespective of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface.

6.2 Advertisers may change the amount of Commission offered on notice to Publishers. AWIN will use reasonable endeavors to procure that Advertiser's reductions of the amount of Commissions offered shall take effect seven days after notification.

6.3 Bonuses may be agreed by the Publisher and Advertisers at their discretion and must be processed via the Interface.

6.4 Commissions and Bonuses shall only be due:

6.4.1 on receipt by AWIN of the corresponding payment in respect of that Action from the Advertiser; and

6.4.2 in respect of Actions procured in accordance with this Agreement and any applicable Program Terms.

6.5 Without prejudice to any other rights or remedies of AWIN, if AWIN reasonably suspects that any Commissions paid under this Agreement have been generated in breach of this Agreement, AWIN may set off or deduct the amount of such Commissions from any future payments due to the Publisher or from any funds held to the Publisher's account from time to time (whether under this Agreement or any other agreement between AWIN and the Publisher). Such deduction shall constitute a genuine pre-estimation of the loss suffered by AWIN as a result of the payment of such Commission in breach of this Agreement.

7. INVOICING AND PAYMENTS

7.1 If applicable, the Sign Up Deposit will be refunded to the Publisher on first payment of any Commission.

7.2 AWIN will pay the Publisher:

7.2.1 Commissions in respect of each Approved Sale, Approved Lead, Clicks or one thousand Ad Impressions; and

7.2.2 Bonuses agreed between the Publisher and Advertisers.

7.3 Payment of Commissions and Bonuses may be subject to any Advertiser Terms.

7.4 Self-billing invoices for Commissions and Bonuses can be accessed by the Publisher via the Awin Interface. Self-billing will be implemented as follows:

7.4.1 the Publisher agrees not to issue invoices for any Commissions and Bonuses generated under this Agreement;

7.4.2 AWIN may provide a copy of this Agreement to HM Revenue & Customs

- (or equivalent local tax authority) in order to evidence the self-billing arrangements between AWIN and the Publisher;
- 7.4.3 the Publisher will immediately notify AWIN if it transfers any part of its business as a going concern;
- 7.4.4 the Publisher will immediately update the Interface accordingly if it:
- (a) stops being registered for VAT; or
 - (b) changes VAT number, regardless of the reason;
- 7.4.5 AWIN may engage third party service providers to administer the issuing of self-billing invoices under this Agreement.
- 7.5 AWIN will pay all self-billed invoices subject to:
- 7.5.1 any minimum payment thresholds implemented by AWIN from time to time being satisfied;
 - 7.5.2 the correct, accurate and complete bank and tax information of the Publisher being shown on the Interface;
 - 7.5.3 the provision of any additional information reasonably requested by AWIN in respect of the Publisher's location or residence;
 - 7.5.4 the payment not being subject to any internal audits or 'network quality' reviews from time to time.
- 7.6 All payments will be made to the bank account nominated by the Publisher on the Publisher Account on the Interface from time to time. AWIN is not obligated to take steps to verify the accuracy of bank account information provided by the Publisher. Updates to bank account information may take up to two Business Days to take effect.
- 7.7 All sums payable under this Agreement shall be exclusive of any sales taxes, use taxes, value added taxes, goods or services taxes or comparable taxes which, if applicable, shall be added at the appropriate rate. These taxes shall be collected and remitted pursuant to applicable law. If payments under this Agreement are subject to withholding tax, AWIN is entitled to deduct the appropriate amount from payments to the Publisher. The parties agree to work together on reducing any withholding tax, and, upon request, shall provide documents required for any reduction, exemption, reimbursement or deduction of withholding tax.
- 7.8 All amounts payable shall be paid in the currency in which the respective Commissions are received from Advertisers. Any costs of currency conversion or losses caused by exchange rate fluctuations shall be borne by the Publisher.
- 7.9 The Publisher will immediately repay any amounts paid to the Publisher in error, or other than in accordance with the Publisher's rights under this Agreement.
- 7.10 In respect of the ShareASale Network, Publisher accounts that are abandoned will be closed. If an abandoned Publisher account has a positive balance, the balance will be paid out to the Publisher. An abandoned Publisher account is defined as any account that has not been logged in to, nor had any transactions posted to it, for a period of 6 months. If one or the other of those conditions are true, the account will remain in an active state.

8. PUBLISHER'S RELATIONSHIP WITH ADVERTISERS

- 8.1 The Publisher's participation in the Network does not create any contract between the Publisher and any Advertiser.
- 8.2 During the term of this agreement the Publisher will not, directly or indirectly, enter or attempt to enter into any agreement, understanding or other form of arrangement (whether express or implied) with any Advertiser without AWIN's prior written approval.

9. WARRANTIES AND INDEMNITY

- 9.1 Each party warrants and undertakes to the other for the Term that:
- 9.1.1 it has full power and authority to enter into this Agreement;
 - 9.1.2 it holds all licenses and approvals necessary for the performance of its obligations under this Agreement;
 - 9.1.3 it will perform its obligations under this Agreement in accordance with all applicable laws and using reasonable skill and care; and
 - 9.1.4 it will not make any false, misleading or disparaging representations or statements regarding the other party.
- 9.2 The Publisher warrants and undertakes to AWIN for the Term that:
- 9.2.1 neither the Publisher, nor any of its officers or shareholders, have previously been party to an agreement terminated by AWIN or any AWIN Group Company for breach;
 - 9.2.2 no officer or shareholder of the Publisher has been an officer or shareholder of a company (or other entity) party to an agreement terminated by AWIN or any AWIN Group Company for breach;
 - 9.2.3 all information about the Publisher set out in the Application Form or on the Interface is complete, true, accurate, not misleading and will be kept up to date;
 - 9.2.4 its marketing of any Advertiser or its Products will comply with all Advertising Standards and Data Regulation;
 - 9.2.5 the Publisher Service will be operated in accordance with all applicable laws (including Advertising Standards and Data Regulation);
 - 9.2.6 it shall comply with the Code of Conduct at all times;
 - 9.2.7 it shall comply with all relevant tax laws;
 - 9.2.8 it shall retain ultimate control of the operation of the Publisher Service;
 - 9.2.9 it is the owner or valid licensee of any Intellectual Property Rights appearing on the Publisher Service, and that no part of the Publisher Service infringes the rights of any third party; and
 - 9.2.10 all Advertiser Materials will be accurately and faithfully reproduced.
- 9.3 The Publisher will indemnify, defend and hold harmless AWIN (including its directors, employees, agents or contractors), from and against any claims, costs, damages,

losses, liabilities and expenses (including legal fees) relating to any claims, actions, suits or proceedings by third parties against AWIN arising out of or related in any way to any breach by the Publisher of any of the warranties at clauses 9.1 and 9.2, or Publisher's gross negligence or willful misconduct.

10. INTELLECTUAL PROPERTY

- 10.1 AWIN hereby grants to the Publisher, for the duration of its participation in the Advertiser Program, a revocable, non-exclusive, non-transferable, royalty-free, worldwide sublicense to publish Advertiser Materials, without modification, on the Publisher Service in the Promotional Spaces to the extent necessary to enable the Publisher to market the respective Advertiser and its Products on the Network in compliance with the Agreement and the Program Terms.
- 10.2 A sublicense granted to a Subnetwork under clause 10.1 shall be further sub-licensable by the Subnetwork to Subpublishers on terms equivalent to clause 10.1, with AWIN's prior written consent.
- 10.3 A sublicense granted by a Subnetwork under clause 10.2 shall not be capable of further sublicense by the Subpublisher without AWIN's prior written consent.
- 10.4 AWIN hereby grants to the Publisher a revocable, non-exclusive, non-sub-licensable, non-transferable, royalty-free worldwide license to use the Interface to the extent necessary for the Publisher to participate in the Network and perform its obligations under this Agreement.
- 10.5 The Publisher will not, and will not attempt to, change, reverse engineer or create derivative works of the Interface or the Tracking Code.
- 10.6 Each party reserves all of its right, title and interest to any of its Intellectual Property Rights licensed under this clause 10, or which it creates under this Agreement or which is created by operation of the Tracking Code.
- 10.7 The Publisher shall use information and data obtained from and in connection with participating in the Network only for the purpose of this Agreement. Uses for any other purpose, or disclosure of such information and data are prohibited.
- 10.8 Either party may identify the other party in lists of clients or customers, and may use the other party's name and logo in marketing materials and presentations. Any other use shall require the prior written consent of the other party.

11. CONFIDENTIALITY

- 11.1 Each party will only use Confidential Information to enjoy its rights or comply with its obligations under this Agreement. Save as set out in this Agreement, neither party will disclose any Confidential Information. Confidential Information shall be kept confidential.
- 11.2 The obligations of confidentiality in this Agreement will not apply to Confidential Information to the extent it:
 - 11.2.1 is in the public domain (other than as a result of a breach of this Agreement);
 - 11.2.2 can be demonstrated as having been independently developed by the receiving party;
 - 11.2.3 is published on the Interface in the receipt or provision of the Services in

accordance with this Agreement;

11.2.4 is required to be disclosed by law or a court order.

11.3 AWIN may disclose Confidential Information to AWIN Group Companies.

11.4 This clause will survive termination for five years.

12. DATA PROTECTION AND COOKIES

12.1 The CCPA Annex shall also apply if the Publisher is a 'Business', as defined in the CCPA Annex.

12.2 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 clause 12.

12.3 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.

12.4 The Publisher will not provide any Personal Data to AWIN without AWIN's prior written consent, unless as anticipated by AWIN in its ordinary operation of the Network.

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

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

Transparency

12.5.2 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**");

12.5.3 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**");

12.5.4 The Publisher shall include a hyperlink to the current AWIN Fair Processing Notice in the Publisher Fair Processing Notice (<https://www.awin.com/us/legal/privacy-policy>);

Personnel

12.5.5 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:

(a) strictly limited to those individuals who need to know and/or

access the relevant Personal Data; and

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

12.5.6 Each party shall ensure that all individuals referred to in Clause 12.5.5 are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

Security and Confidentiality of Data

12.5.7 Each party shall in relation to the Personal Data, implement appropriate technical and organizational 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:

- (a) the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing; and
- (b) the risk of varying likelihood and severity for the rights and freedoms of natural persons.

12.5.8 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, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise Processed.

Subprocessors

12.5.9 With respect to a proposed Subprocessor, each party shall:

- (a) before the Subprocessor first Processes Personal Data, carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for Personal Data required by applicable Data Regulation; and
- (b) ensure that the arrangement with such a Subprocessor, is governed by a written contract including terms meet the requirements of Article 28(3) of the GDPR.12.5.9

Data Subject Rights

12.5.10 Each party shall fulfil their obligations to respond to requests to exercise Data Subject rights under the Data Regulation. 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

12.5.11 Each party shall:

- (a) notify the other party without undue delay upon becoming aware of a Personal Data Breach affecting Personal Data ("**Network Data Breach**"); and
- (b) 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;

- (c) meaningfully consult with the other party in respect of the external communications and public relations strategy related to the Network Data Breach;
- (d) subject to 12.5.11, not notify any data protection regulator of the Network Data Breach without having obtained prior written approval of the other party; and
- (e) 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.

12.5.12 The notification set out in Clause 12.5.11(a) above, shall as a minimum:

- (a) 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;
- (b) describe the likely consequences of the Network Data Breach; and
- (c) describe the measures taken or proposed to be taken to address the Network Data Breach.

12.5.13 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

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

12.6 The Publisher warrants and undertakes for the Term that:

12.6.1 any Processing under this 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 Authorized Users, complies with Data Regulation;

12.6.2 it holds any rights or consents necessary for the transfer outside of the EEA of Personal Data by AWIN or any Advertiser.

12.7 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:

12.7.1 Process Personal Data only AWIN's documented instructions, including in respect of the deletion or return of Personal Data;

12.7.2 assist AWIN in all respect necessary to enable or assist AWIN to comply with Data Regulations;

12.7.3 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 clause 12; and

12.7.4 comply with clauses 12.5.4, 12.5.5, 12.5.6, 12.5.7, 12.5.8, 12.5.9, 12.5.11, 12.5.12, 12.5.13 and 12.5.14.

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

12.9 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.

13. LIMITATION OF LIABILITY

13.1 This clause 13 sets out the entire liability of AWIN under or in connection with the Agreement.

13.2 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.

13.3 AWIN will not be liable for any losses of the Publisher if AWIN's compliance with the Agreement is prevented by the acts or omissions of the Publisher.

13.4 AWIN will not be liable to the Publisher for: loss of profit, business, goodwill, anticipated savings, goods, contract, use or data; losses arising from the acts or omissions of an Advertiser; or for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

13.5 The total liability of AWIN in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the Agreement will be limited to the amount of Network Fee actually received by AWIN from Advertisers in respect of Commissions paid to the Publisher in the 12 month period preceding the date on which the claim arose.

13.6 Except as expressly stated otherwise in this Agreement, all warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.

13.7 The Network, the Interface, the Tracking Code, the Services, their use and the results of such use are provided "as is" to the fullest extent permitted by law. AWIN disclaims all express or implied warranties, including warranties of satisfactory quality and fitness for a particular purpose, which may be implied in respect of the Network, the Interface, the Tracking Code, the Services, their use and the results of such use. The performance of the Network, the Tracking Code and the Interface relies on third parties beyond AWIN's control, and in particular, the maintenance by Advertisers of the proper integration of the Tracking Code into Advertiser URLs. AWIN specifically disclaims any warranty:

13.7.1 that the use or operation of the Network, the Interface or the Tracking Code will be uninterrupted or error-free;

13.7.2 that the Tracking Code will be properly integrated into the Advertiser URLs;

- 13.7.3 that the Tracking Code accurately records Actions at all times;
 - 13.7.4 in respect of the Advertiser Materials, including any warranty that the Advertiser Materials comply with Advertising Standards;
 - 13.7.5 that defects will be corrected;
 - 13.7.6 that the Network, the Interface or the Tracking Code are free of viruses or malicious code;
 - 13.7.7 that any security methods employed will be sufficient;
 - 13.7.8 in respect of any Publisher or its technology; and
 - 13.7.9 regarding correctness, accuracy, or reliability.
- 13.8 AWIN shall only be held liable in cases of intent or gross negligence of one of its legal representatives, executives or other vicarious agents, in the event of any culpable breach of a material contractual obligation and limited to the amount of the typically foreseeable loss.
- 13.9 Nothing in this Agreement limits or excludes the liability of AWIN in the event of culpable injury to life, limb or health, fraud, fraudulent misrepresentation or fraudulent misstatement as well as in cases of mandatory statutory liability.

14. TERMINATION AND SUSPENSION

- 14.1 This Agreement will start on the Effective Date and continue until terminated in accordance with its terms.
- 14.2 Either party may terminate the Agreement on 30 days' written notice to the other party for any reason.
- 14.3 Without prejudice to its other rights or remedies, a party may terminate the Agreement immediately on written notice to the other party, if:
- 14.3.1 the other party materially breaches this Agreement;
 - 14.3.2 the other party is deemed unable to pay its debts; steps are made to wind up, or appoint an administrator over, the other party; a third party becomes entitled to appoint a receiver over the assets of the other party; the other party negotiates with all or a class of its creditors, or proposes or enters a compromise with such creditors; or any similar or analogous event occurs.
- 14.4 AWIN may immediately terminate this Agreement or Suspend the Publisher if the Publisher:
- 14.4.1 does not access the Publisher Account for a period of six months or if no Commissions have been generated for a period of six months;
 - 14.4.2 is reasonably suspected by AWIN to have breached any:
 - (a) of the warranties at clauses 9.1 and 9.2;
 - (b) Program Terms of an Advertiser;
 - (c) part of the Code of Conduct.

14.5 AWIN may terminate this Agreement, immediately on written notice, if the Publisher undergoes a Change of Control.

15. CONSEQUENCES OF TERMINATION AND SUSPENSION

15.1 During any period of Suspension:

15.1.1 the Publisher is not permitted to access the Interface;

15.1.2 all licenses will be Suspended and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;

15.1.3 AWIN may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able); and

15.1.4 no payments will be made to the Publisher.

15.2 On termination of the Agreement:

15.2.1 all licenses will terminate and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;

15.2.2 AWIN may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able);

15.2.3 each party will return or at the other party's option destroy all confidential information in its possession within five Business Days; and

15.2.4 unless terminated by AWIN under clauses 14.3 or 14.4, AWIN will pay all outstanding Commissions and Bonuses due to the Publisher;

15.2.5 by AWIN under clauses 14.3 or 14.4 all unpaid Commissions as of the date of termination, or accruing after the date of termination, shall be forfeited to AWIN irrevocably and the Publisher hereby waives any right or entitlement to recover such Commissions and Bonuses from AWIN.

15.3 Termination of this Agreement will not affect any existing rights or remedies. 15.4

Clauses 1, 2, 5, 6, 7, 10.5, 10.6, 11, 12, 13, 15, 16 and 17 will survive termination.

16. NOTICES

16.1 Notices given under this Agreement will be in writing and:

16.1.1 displayed by AWIN on the Interface;

16.1.2 delivered by the Publisher by hand or sent by pre-paid first-class post or recorded delivery post to AWIN at AWIN's registered office;

16.1.3 delivered by AWIN by hand or sent by pre-paid first-class post or recorded delivery post to the Publisher at its notice address set out in the Application Form (or such other address as may be set out on the Publisher Account); or

16.1.4 sent by AWIN by email to the Publisher's notice email address set out in the Application Form (or such other notice email address as may be set out on the Publisher Account).

16.2 A notice displayed by AWIN on the Interface will be deemed to have been received at the time of its display (or if displayed outside business hours, at 9 am on the first Business Day following display). A notice delivered by hand will be deemed to have been received when delivered (or if delivered outside business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post will be deemed to have been received two Business Days after posting. A notice sent by email will be deemed to have been received at the time of transmission as shown by the sender's records (or if sent outside business hours, at 9 am on the first Business Day following dispatch).

17. GENERAL

- 17.1 AWIN may change the terms of this Agreement on 14 days' notice to the Publisher.
- 17.2 Certain services Awin offers may be subject to additional terms. Such terms will be displayed on the Interface.
- 17.3 AWIN may set off any liability of the Publisher against any liability of AWIN.
- 17.4 Time for performance of clauses 3.10, 4.6, 7.4.3, 7.4.4, 7.9, 15.1.2 and 15.2.1 are of the essence of this Agreement.
- 17.5 No party will be liable for any breach of this Agreement arising from circumstances beyond its reasonable control (a "Force Majeure Event"). If a Force Majeure Event continues for six months, the unaffected party may terminate this Agreement by giving 30 days' written notice to the other party.
- 17.6 The Publisher may not assign or subcontract its rights or obligations under this Agreement in whole or part without AWIN's prior written consent. AWIN may assign or subcontract its rights or obligations under this Agreement, including to a AWIN Group Company.
- 17.7 Nothing in the Agreement constitutes a partnership or joint venture between the parties, nor constitutes a party the agent of the other. No party has authority to bind the other.
- 17.8 A Person who is not a party to this Agreement will not have any statutory rights under or in connection with it.
- 17.9 A counterpart of this Agreement executed and/or transmitted electronically shall be treated as fully binding and with full legal force and effect.
- 17.10 This Agreement constitutes the entire agreement between the parties relating to its subject matter, to the exclusion of the United Nations Convention on Contracts for International Sale of Goods.
- 17.11 The Parties irrevocably agree that the state and federal courts in the count of New York, New York shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.

CCPA ANNEX

1. INTERPRETATION AND APPLICATION

- 1.1 The definitions and rules of interpretation set out in the Standard Terms will apply in this CCPA Annex, unless otherwise defined below.
- 1.2 The following definitions and rules of interpretation apply in this CCPA Annex:
 - 1.2.1 “**CCPA**” means the California Consumer Privacy Act of 2018 Cal. Civil Code § 1798.100 et seq and any related regulations or guidance;
 - 1.2.2 “**Subprovider**” any person (excluding an employee of either party) appointed by or on behalf of either party to Process Personal Information on behalf of such party or otherwise in connection with this CCPA Annex;
 - 1.2.3 the terms “**Consumer**”, “**Business**”, “**Business Purpose**”, “**Personal Information**”, “**Processing**”, “**Service Provider**” and “**Third Party**” have the meanings given to them in the CCPA; and
 - 1.2.4 the term “**PI Sell**” shall have the meaning given to the term “sell,” in the CCPA.
- 1.3 This CCPA Annex applies in respect of the Processing of Personal Information, by or on behalf of a Business only.

2. DATA PROTECTION

- 2.1 AWIN and the Publisher will comply with their respective obligations under the CCPA. Each party will provide the other party any co-operation reasonably requested to enable the other party’s compliance with the CCPA.
- 2.2 The Publisher will not provide any Personal Information to AWIN without AWIN’s prior written consent, unless as anticipated by AWIN in its ordinary operation of the Network.

General

- 2.3 In respect of the Processing of Personal Information under the Agreement:
 - 2.3.1 the Publisher is the Business; and
 - 2.3.2 AWIN is the Service Provider and not a Business or a Third Party.
- 2.4 The Publisher confirms that such Processing of Personal Information by AWIN on behalf of the Publisher shall be undertaken by AWIN for the Publisher’s own Business Purpose.
- 2.5 AWIN shall not:
 - 2.5.1 PI Sell Personal Information;
 - 2.5.2 retain, use, or disclose Personal Information it receives from the Publisher under the Agreement for any purpose other than for the specific purpose of performing the Services, including retaining, using, or disclosing such Personal Information for a commercial purpose other than providing the

Services;

- 2.5.3 retain, use, or disclose the Personal Information outside of the direct business relationship between the AWIN and the Publisher.
- 2.6 Entry by AWIN into this CCPA Annex shall constitute a certification that AWIN understands the restrictions in Clause 2.5 of this CCPA Annex and will comply with them.

Transparency

- 2.6.1 The Publisher shall provide Consumers with information about how Personal Information is being Processed by or on behalf of the Publisher, which shall at a minimum include all the information required by the CCPA, in a concise, transparent and easily accessible form, using clear and plain.

Consumer Rights

- 2.6.2 Each party shall fulfil their obligations to respond to requests to exercise Consumer rights under the CCPA. Each party will provide the other party any co-operation reasonably requested to enable the other party's compliance with this CCPA Annex.

Personnel

- 2.6.3 Each party shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to Personal Information, ensuring in each case that access is:
- (a) strictly limited to those individuals who need to know and/or access the relevant Personal Information; and
 - (b) as strictly necessary for the purposes of the Agreement and to comply with the CCPA in the context of that individual's duties.
- 2.6.4 Each party shall ensure that all individuals referred to in Clause 2.6.3 of this CCPA Annex are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

Security and Confidentiality of Data

- 2.6.5 Each party shall in relation to Personal Information, implement appropriate technical and organizational measures to ensure an appropriate level of security, including, as appropriate, the measures referred to in the CCPA. In doing so, each party shall take into account:
- (a) the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing of Personal Information; and
 - (b) the risk of varying likelihood and severity for the rights and freedoms of natural persons.
- 2.6.6 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, unauthorized disclosure of, or access to Personal Information

transmitted, stored or otherwise Processed.

Subproviders

- 2.6.7 Subproviders shall be engaged as Service Providers of the engaging party.
- 2.6.8 With respect to a proposed Subprovider, each party shall:
- (a) before the Subprovider first Processes Personal Information, carry out adequate due diligence to ensure that the Subprovider is capable of providing the level of protection for Personal Information required by the CCPA; and
 - (b) ensure that the Subprovider is engaged for a Business Purpose, pursuant to a written contract, which prohibits the Subprovider from retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services specified in the contract for that party, or as otherwise permitted by CCPA.

Personal Information Breach

- 2.6.9 Each party shall:
- (a) notify the other party without undue delay upon becoming aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Information transmitted, stored or otherwise Processed, affecting Personal Information ("**Network Data Breach**"); and
 - (b) provide the other party with sufficient information to allow it to meet any obligations to report or inform Consumers of the Network Data Breach under or in connection with the CCPA;
 - (c) meaningfully consult with the other party in respect of the external communications and public relations strategy related to the Network Data Breach;
 - (d) subject to compliance with CCPA and Clause 12 of the Agreement, not notify any data protection regulator of the Network Data Breach without having obtained prior written approval of the other party; and
 - (e) 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.
- 2.6.10 The notification set out in Clause 2.6.9(a)12.5.11(a) of this CCPA Annex, shall as a minimum:
- (a) describe the nature of the Network Data Breach, the categories and numbers of Consumers concerned, and the categories and numbers of Personal Information records concerned;
 - (b) describe the likely consequences of the Network Data Breach; and

- (c) describe the measures taken or proposed to be taken to address the Network Data Breach.

2.6.11 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.

2.7 The Publisher warrants and undertakes for the Term that:

2.7.1 any Processing of Personal Information under this CCPA Annex, undertaken by AWIN or any Advertiser acting as a Service Provider on behalf of the Publisher acting as a Business, including any Processing of Personal Information relating to the Publisher and any Authorized Users, complies with the CCPA;

2.7.2 its marketing of any Advertiser or its Products will comply with the CCPA;

2.7.3 the Publisher Service will be operated in accordance with the CCPA.

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 CCPA.

3. LIMITATION OF LIABILITY

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