



Affilisearch AFFILIATE TERMS AND CONDITIONS

The following terms and conditions, together with the Affilisearch Privacy Policy ("Privacy Policy") and any and all Acceptable Use Policies referenced herein ("AUPs"), constitute the binding legal agreement (this "Agreement") by and between Affilisearch ("Company") and you ("Affiliate," "You" or "Your"), the user of both the Affilisearch website (the "Website") and the Affilisearch advertising network service (the "Service"). You and Company may also be individually referred to herein as a "Party" and collectively as "Parties." Any reference to You herein means You and/or the company or entity registering with Affilisearch and, without limitation, any parent entities, owners, subsidiaries, affiliates, predecessor or successor entities, and any agents, officers, directors and/or employees acting on behalf of same. You agree to use the Website, the Service and any additional products and/or services offered by Company in the future only in accordance with the Agreement. Company reserves the right to make changes to the Website, the Service and the terms and conditions of the Agreement at any time. The latest Agreement will be posted on the Website. Your continued use of the Website and/or the Service after any such modification and notification thereof shall constitute Your consent to such modification. Therefore, You should regularly check the Website for updates and/or changes. If You do not agree to the terms and conditions contained within the Agreement in their entirety, You are not authorized to register as an Affiliate, or use the Service and/or Website in any manner or form whatsoever.

1) Background and Use of the Website and the Service

Company posts offers ("Offers") and associated creative ("Creative") in connection with various advertising programs ("Program(s)") sponsored by Company or its third party advertising clients ("Merchants") by and through Company's proprietary network. Once approved, Affiliate shall be permitted to download the Creative: (i) for publication on any website(s) affiliated with, owned by, operated by and/or controlled by Affiliate (collectively, "Affiliate Websites"); or (ii) for distribution in email messages ("Affiliate E-mails") sent to those e-mail addresses listed in any database affiliated with, owned by, operated by and/or controlled by Affiliate (collectively, "Affiliate Databases"). No scripts, images, graphics, links, copy or processes for generating Events (as defined below), other than the Creative may be used by Affiliate without first obtaining the prior express written permission of Company. Affiliate may not edit or modify the Creative in any way without Company's prior written approval. In the event that Company desires to cancel the use of any Creative, Affiliate shall cease the use of same no more than forty-eight (48) business hours following Company's request. Affiliate understands and agrees that Company is the sole owner of any and all intellectual property rights associated with the Creative. The Programs will specify the amount and terms under which You will receive payment ("Commission") when the Program's requirements are fulfilled. Commissions are generated from specified events (each, an "Event") that include, without limitation, clicks, click-throughs, sales, registrations, impressions and leads. The definition of the Event associated with each Program shall be set forth in the applicable Program's specifications. If You accept a Program, You agree to place that Program's Creative on Your Affiliate Websites and/or in Your Affiliate E-mails, in accordance with the terms of the Agreement and the accepted Program. Company may change a Program at any time upon prior notice to You, unless otherwise specified in the Program terms. Similarly, You may cease participation in previously accepted Programs at any time upon prior notice to Company, unless otherwise specified in the Program terms. Company is responsible for displaying and administering all active Programs and tracking associated Commissions owed to You via the Website Data (as defined below) Company shall compile, calculate and electronically deliver data necessary to determine Your billing and compensation. Company's figures and calculations regarding Events, Commissions and any compensation due to You shall be final and binding. Any questions regarding the data provided by Company need to be submitted to Company in writing within fourteen (14) days of Your receipt of the applicable payments/invoices. Otherwise, such information will be deemed accurate and accepted by You.

2) License

You must obtain official approval from Company before You may become an Affiliate. Company may reject Your Affiliate application and/or terminate Your participation in any Program at any time and for any reason, in Company's sole discretion. You shall, upon Company's request, provide Company with a list of Affiliate Websites and Affiliate Databases. Only Affiliate Websites and Affiliate Databases that have been reviewed and approved by Company may be utilized in connection with Your participation in the Programs. Company reserves the right to withhold or refuse approval of any Affiliate Websites and/or Affiliate Databases for any reason whatsoever, in Company's sole discretion, even where Company has previously approved such Affiliate Websites and/or Affiliate Databases, as applicable.

In order to be eligible to become an Affiliate, and in order to maintain an active Affiliate status, Your Affiliate Websites, Affiliate Databases and/or Affiliate E-mails must meet the following criteria:



1. Your Affiliate Websites must contain distinct and legitimate content, substance and material, not simply a list of links or advertisements. Further, Your Affiliate Website(s) must serve a purpose substantially or completely separate and distinct from merely being designed to earn money solely from Company's Merchants or third party Merchants;
2. Your Affiliate Websites and Affiliate E-mails must each be represented by a legitimate second-level domain name (e.g. yoursite.com is acceptable; however, a shared server, e.g., sharedsite.com/yoursite, is not acceptable);
3. Your Affiliate Websites cannot be offered as a part of a community-based website personal entry or personal page;
4. Your Affiliate Websites and Affiliate E-mails may not incentivize users to click on ads without express prior approval in writing from Affilisearch. Incentives include, but are not limited to, awarding user's cash, points, prizes, contest entries, etc.
5. Your Affiliate Websites must be fully functional at all levels; no "under construction" websites or sections are permissible; and
6. Spawning process pop-ups and exit pop-ups may not be activated through Your Affiliate Websites and/or Affiliate E-mails.

The content of Your Affiliate Websites and Affiliate E-mails must not promote, advocate, facilitate, link to or otherwise include any of the following:

1. Racial, ethnic, political, hate-mongering or otherwise objectionable content;
2. Investment, money-making opportunities or advice not permitted under foreign, or local law;
3. Violence or profanity;
4. Pornographic, obscene, sexually explicit or related content;
5. Material that defames, abuses, is libellous, is tortuous or threatens physical harm to others;
6. Material that displays any telephone numbers, street addresses, last names, URLs, e-mail addresses or any confidential information of any third person;
7. Material that impersonates any person or entity;
8. Any indication that any statements You make are endorsed by Company or an Merchant, without Company's specific prior written consent;
9. Illegal substances or activities (e.g., illegal narcotics, how to build a bomb, counterfeiting money, etc.);
10. Material that discriminates on the basis of race, ethnicity, gender, age, disability, religion or sexual orientation;
11. Content which is inappropriate or harmful to children;
12. Terrorism or terrorist-related activities, sedition or similar activities;
13. Software Pirating (e.g., warez, hotline);
14. Hacking or Phreaking;
15. Any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
16. Any software, product or service that is illegal or that violates the rights of a third party including, but not limited to, spyware, adware, programs designed to send unsolicited advertisements (i.e. "spamware"), services that send unsolicited advertisements, programs designed to initiate "denial of service" attacks, mail bomb programs and programs designed to gain unauthorized access to networks on the Internet;
17. Any software, product or service that harvests or collects the personal information of Internet users, whether or not for commercial purposes, without the express consent of such users;
18. Any spoofing, redirecting or trafficking from other websites in an effort to gain traffic;
19. Any content that infringes upon the intellectual property rights of any third party;
20. Any material that otherwise infringes upon the rights of any third parties including, without limitation, false advertising, unfair competition, invasion of rights of publicity or privacy, violation of any anti-discriminatory law or regulation, or any other right of any person or entity;
21. Any material that violates any laws relating to the use of SPAM or
22. Any illegal activity whatsoever (including any violations of applicable foreign or local law, rule or regulation, EU directives and regulations and/or the laws of any foreign jurisdiction in which You operate).

Upon approval of Your Affiliate application, Company grants to You a non-transferable, non-exclusive, limited license to use the Website, Service, Creative, Offers, Website Data and any data, reports, information and/or analyses arising out of such use that Company makes available to You, as well as the associated applications, data, methods of doing business and/or any elements thereof (collectively, "Company Intellectual Property") subject to the terms and conditions set forth herein. You acknowledge and agree that You do not have, nor will



You claim any right, title or interest in, or to, the Company Intellectual Property. You may only access the Website via web browser, email or in a manner otherwise approved by Company. No part of the Company Intellectual Property may be reproduced in any form or incorporated into any information retrieval system, electronic or mechanical. You may not use, copy, emulate, clone, rent, lease, sell, modify, decompile, disassemble, reverse engineer or transfer the Company Intellectual Property or any portion thereof. Systematic retrieval of material from the Website and/or Service by automated means or any other form of scraping or data extraction in order to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission from Company is prohibited. Company reserves any rights not explicitly granted in the Agreement. You may not use any device, software or routine to interfere or attempt to interfere with the proper working of the Website. You may not take any action that imposes an unreasonable or disproportionately large load on the Service and/or Website infrastructure. Your right to use the Company Intellectual Property is not transferable. Affiliates that display Creative on their Affiliate Websites shall allow Company to disclose the Affiliate Website URLs and Affiliate logos in any marketing materials and/or press releases created by Company.

3) Fraud

Company actively monitors traffic, Events, Commissions and other Program-related activities for fraud. If Company suspects that Your account has been used in a fraudulent manner, Your account will be deactivated effective immediately and with no notice to You pending further investigation.

You will place, deliver and/or otherwise use Offers and/or Creative only with the intention of delivering valid Events for the benefit of the applicable Merchant as determined by Company and the applicable Merchant. You may not, nor knowingly permit any person to, activate Creative or inflate the amount of leads, clicks or other Events through any deceptive or misleading practice, method or technology including, but not limited to, the use of any spyware, device, program, robot, iframes, hidden frames, redirects, spiders, computer script or other automated, artificial or fraudulent methods designed to appear like an individual, real live person performing an Event. You may not establish or cause to be established any promotion that provides any sweepstakes entries, rewards, points, incentives or other compensation to be earned in connection with generating Events, or otherwise attempt to induce Internet users to click on any of the Creative through use of any other incentives, without obtaining the prior written approval of Company.

If You fraudulently add leads, clicks or other Events through the use of fraudulent means of traffic generation (as determined solely by Company), You will forfeit Your entire Commission-related commissions for all Programs, not just those commissions associated with the fraudulent activity, and Your account will be terminated effective immediately. Company reserves sole judgment in determining fraud and You agree to be bound by these determinations.

Where Company brings instances of suspected fraud to Affiliate's attention, it is the OBLIGATION of Affiliate to prove to Company that it has NOT engaged in fraud. Company will hold Affiliate's Commission-related payments in 'Pending Status' until Affiliate has satisfactorily provided evidence that Affiliate has not engaged in fraud. Company uses a variety of methods to flag accounts for possible fraud, including accounts that:

1. Record click-through rates that are much higher than industry averages and where solid justification is not evident;
2. Have Affiliate Websites which contain ONLY click programs generating clicks with no indication, based upon website traffic statistics, that such Affiliate Websites can account for the clicks reported;
3. Have generated fraudulent leads or other Events, as determined by Company or its Merchants; and
4. Use fake redirects, automated software and/or other fraudulent means to generate clicks or leads from Programs.

During the term of the Agreement, and for a period of six (6) months thereafter, Company shall have the right to inspect and audit Affiliate's books and records relating to Affiliate's use, possession and distribution of the Creative, Offers, Service, Company Intellectual Property and Customer Information (as defined below), as applicable, upon five (5) days' prior written notice, for the purpose of determining compliance with the Agreement. Company's duly authorised representatives shall have access at all reasonable times to all of Affiliate's personnel, accounts and records that may be needed to verify and audit all of the aforementioned issues. If any such audit or inspection discloses material misuse of the Creative, Offers, Service, Company Intellectual Property and/or Customer Information, as applicable, Affiliate shall pay for the cost of such audit and Company shall be entitled to: (a) terminate Your Affiliate account; and (b) pursue any and all other remedies that Company may have at law or in equity.

4) Use of Downloadable Software

Downloadable Software may only be utilised by You if its use complies with Company's AUP for Downloadable Software. Downloadable Software must receive approval by Company prior to use.



5) Use of Email for Marketing Purposes

Email Marketing may only be utilised by You if its use complies with the Company's AUP for Email Marketing.

6) Use of Search for Marketing Purposes.

Search Engine Marketing may only be utilised by You if its use complies with Company's AUP for Search Engine Marketing.

7) Payment

(a) You will be paid a "Base Fee," which shall equal the total Commissions generated by the Event(s) specified in the applicable Program(s). The Base Fee shall be paid on a default schedule of thirty (30) days after the last day of a given calendar month for all the Events realized in that month. Every Affiliate account must have a unique, valid taxpayer identification number ("TIN") or valid Social Security number associated with it. All payments shall be based on actual figures as defined, accounted for and audited by Company and/or the applicable Merchant(s). All accounts will be paid in GBP (British Pounds). Affiliates shall have the choice of receiving payment via PayPal, Moneybookers or Neteller. No payment will be issued for an amount of less than Eight Dollars (£10.00). You will receive payment when Your account reaches the Ten Pounds (£10.00) threshold or when Your relationship with Company ceases, whichever occurs first.

(b) Company keeps track of Events and associated Commissions via various tracking technologies including, but not limited to, the use of website integration tags included in the Creative, or otherwise ("Integration Tags"). In addition, Affiliates that display Creative on their Affiliate Websites shall allow Company to place a 1x1 tracking pixel on the homepage of each Affiliate Website displaying such Creative ("Pixel Tags" and together with the Integration Tags, "Tags"). To ensure payment, You may not attempt in any way to interfere and/or alter the Tags or other data necessary for Company to measure the performance of Creative, calculate Commissions and Events and otherwise provide the Service (collectively, "Website Data"). Altering Website Data may jeopardize Your ability to be paid for Events and is grounds for immediate termination of Your Affiliate account. Without limiting the generality of the foregoing, if You interfere with Website Data in any way, thereby disrupting or disabling Company's tracking systems, Company has the right to cancel any applicable Commissions due for Events generated in connection with such Website Data. If there is any impairment of the Website Data not caused by You or any of Your Sub-Affiliates (as defined below), Company shall calculate Events based upon: (i) Your average monthly Events recorded by Company for the applicable Program, prorated for any shorter or longer period of time, where data is available to calculate a monthly average; or (ii) such amount that Company reasonably determines is due and owing, in its sole discretion.

(c) Affiliates that refer a new Affiliate to Company may be eligible for a "Referral Fee." The referred Affiliate must be accepted by the Company in order for You to be eligible for a Referral Fee. You may not refer another account belonging to You. You may not refer an Affiliate that You have referred previously. The default Referral Fee is two percent (2%) of the revenues generated by the referred Affiliate for the six (6) month period commencing on the first day that any money is earned by the referred Affiliate ("Referral Fee Period"). In order to be eligible to earn a Referral Fee in a given month, Your primary account must contain a minimum balance of Five Hundred Pounds (£500.00) at the end of that month ("Referral Payment Threshold"). The Referral Payment Threshold is based entirely on Your monthly Base Fees, not any Referral Fees previously earned. If Your account is below the Referral Payment Threshold during a given month, You will not be eligible to earn a Referral Fee that month; however, You will be eligible again the following month if it is within the aforementioned six (6) month Referral Fee Period. The Referral Fee will be paid to Your account sixty (60) days after the end of the applicable month, provided that a minimum balance of Ten Pounds (£10.00) in Referral Fees has accumulated in Your account. If Your account contains a Referral Fee amount of less than Ten Pounds (£10.00), You will be paid upon reaching the (£10.00) threshold, or when Your relationship with Company ceases, whichever occurs first.

8) Termination

The Agreement shall commence upon Company's acceptance of Your Affiliate application and remain in effect until terminated as set forth herein. The Agreement may be terminated by You upon three (3) days' prior written notice to Company. The Agreement shall terminate immediately upon the dissolution or insolvency of either Party. Company reserves the right, in its sole and absolute discretion, to terminate a Program and/or remove any Creative and/or Offers at any time for any reason. Company also reserves the right to terminate the Agreement, as well as Your access to the Website, Service and/or any other Company Intellectual Property at any time with or without notice to You. Where Company decides, in its sole discretion, to provide You with termination notice, such notice will be sent via e-mail and will be effective immediately. Upon termination all legitimate moneys due to Affiliate that are actually collected from the applicable Merchant, even amounts below the Payment Threshold, will be paid during the next billing cycle. If Affiliate commits fraud in connection with the Service and/or any Program, or otherwise violates the Agreement, the Privacy Policy or any of the applicable AUP(s), then such payments otherwise due Affiliate shall be revoked, as determined solely by Company. The representations, warranties and obligations contained in Sections 2, 7, 9, 10, 11 and 12 hereof shall remain in full force and effect after termination of the Agreement. Other than in the case of Your breach of the Agreement, all payment obligations accruing prior to the date of termination shall survive until fully fulfilled.



9) Representations and Warranties

You represent and warrant that:

1. You will not, nor knowingly permit any person to, use third party trademarks in any way to direct traffic to any Affiliate Websites or Merchant websites including, but not limited to, purchasing keywords from a search engine service provider that include the trademark, service mark and/or brand name, or any derivative of any such trademark, service mark or brand name, of Company, any Merchant and/or any of their respective affiliates or clients;
2. Your Affiliate Websites and Affiliate E-mails are, and shall remain at all times during the term hereof, in compliance with all applicable foreign and local laws and shall not contain or promote, or link to another website that contains, libellous, defamatory, abusive, violent, prejudicial, obscene, sexually explicit or illegal content;
3. Your Affiliate Websites and Affiliate E-mails are, and shall remain at all times during the term hereof, in compliance with all applicable Company rules and policies;
4. Your Affiliate Websites and Affiliate E-mails are, and shall remain at all times during the term hereof, in compliance with any and all applicable rules and policies set forth by the respective Merchants in the Programs that You elect to participate in;
5. You will not send unsolicited bulk e-mail (i.e., SPAM) or otherwise violate any of the provisions of laws pertaining to SPAM;
6. You will not post any messages to newsgroups, chat rooms, bulletin boards or any other places that mention specific Merchants or Programs unless You obtain the express prior written permission from Company; and
7. You are not, nor are You acting on behalf of any person or entity that is, prohibited from engaging in transactions with UK or U.S. citizens, nationals or entities under applicable U.S. and UK law and regulation including, but not limited to, regulations issued by the U.S. Office of Foreign Assets Control ("OFAC"). In addition, You are not, nor are You acting on behalf of any person or entity that is, a Specially Designated National ("SDN"), as OFAC may so designate from time to time. In addition to all other rights and remedies available to Company under this Agreement, and at law and in equity, Your breach of this Section 9.7 shall result in immediate termination of Your Affiliate account and forfeiture of any and all Commissions previously paid and/or owed to You under this Agreement.
8. You will be solely responsible for the development, operation and maintenance of the Affiliate Websites, Affiliate Databases and Affiliate E-mails and for any and all materials that appear therein. Such responsibilities include, without limitation: (i) the technical operation of the Affiliate Websites, Affiliate Databases, Affiliate E-mails and all related equipment; (ii) creating and posting content, descriptions and references on or through the Affiliate Websites and Affiliate E-mails; and (iii) the accuracy and propriety of materials posted on or through the Affiliate Websites and Affiliate E-mails;
9. Your Affiliate Websites, Affiliate Databases, Affiliate E-mails, and any and all information, products and/or services contained therein, or that You can link to or access therein or there through, as well as Your associated marketing practices, will at all times fully comply with all applicable foreign, federal and local laws, rules and/or regulations. There is no pending or, to the best of Your knowledge, threatened claim, action or proceeding against You;
10. Your execution, delivery and performance of the Agreement will not conflict with or violate: (i) any provision of law, rule or regulation to which You are subject; (ii) any order, judgment or decree applicable to You; (iii) any provision of Your corporate by-laws or certificate of incorporation, if applicable; or (iv) any agreement or other instrument applicable to You;
11. You own, or have the legal right to use and distribute, all content, copyrighted material, products and services displayed on and/or through Your Affiliate Websites and Affiliate E-mails;
12. You agree to not use deceit when marketing Merchant's Offers or presenting these Offers to consumers;
13. You have the right, power, and authority to enter into the Agreement and grant the rights specified herein;
14. You will not attempt in any way to alter, modify, eliminate, conceal or otherwise render inoperable or ineffective the Website Data provided by or obtained from Company that allows Company to measure the performance of Creative, calculate Commissions and Events and otherwise provide the Service;
15. You will not "frame" or "mirror" any part of the Website, without obtaining our prior express written authorisation;
16. If instructed to do so by Company and/or if the Agreement terminates, You will immediately remove and discontinue the use of any Creative, Offers and/or Website Data;
17. You understand that Company does not represent, warrant, or make any specific or implied promises as to the successful outcome of any Programs;



18. You will display the Creative exactly as it is made available to You in connection with the applicable Program and You will not alter in any way any Creative that has been made available to You by and through the Website;
19. If fraudulent activities are occurring, unbeknownst to You, through Your Affiliate Websites, Affiliate Databases and/or Affiliate E-mails and You are notified that fraudulent activities may be occurring, if You do not take all necessary action to stop such fraudulent activities from continuing, then You shall be responsible for all associated costs and legal fees resulting from these fraudulent activities; and
20. You understand that if any errors or undesirable results occur in connection with recording or calculating Events, Commissions and associated payments due to no fault of Company, Company shall not be responsible for any associated losses.

10) Customer Information – Non Disclosure

As between Affiliate and Company, all information submitted by end-user customers ("Customer Information") in connection with a Program shall be considered proprietary to and owned exclusively by Company. Such Customer Information shall be considered the confidential information of Company and may not be utilised or otherwise disclosed by You. Without limiting the generality of the foregoing, as well as the confidentiality obligations set forth herein, You agree that You: (i) will not transfer, export, display, forward or otherwise share data contained in the Customer Information to/with any third party; (ii) will not use the data contained in the Customer Information on Your own behalf in any manner not expressly authorized by Company; (iii) will not use the data contained in the Customer Information to create any interactive on-line, CD-ROM or other derivative product; (iv) will not publicly display the data contained in the Customer Information on the Internet; and (v) will notify Company as soon as You learn of any actual or suspected unauthorized use of or access to the data contained in the Customer Information and provide reasonable assistance to Company in the investigation and prosecution of any such unauthorized use or disclosure.

In addition, You acknowledge that all non-public information, data, reports and other Company Intellectual Property made available by Company hereunder or otherwise as part of the Service is proprietary to and owned by Company or, where applicable, the Merchant or third party providing such material. All Company Intellectual Property and other proprietary and confidential information of Company's Merchants and third party partners are protected by copyright, trademark and other intellectual property laws. You agree not to reproduce, disseminate, sell, distribute or commercially exploit any Company Intellectual Property and other proprietary or confidential information of Company or its Merchants and third party partners in any manner. These non-disclosure obligations shall survive termination or expiration of the Agreement. Both Parties agree and acknowledge that if Affiliate violates its confidentiality obligations under the Agreement, it would result in serious and irreparable damage to Company and that a remedy at law for any such breach would be inadequate. Therefore, the Parties agree that in the event of a breach or threatened breach of these provisions by Affiliate, Company shall be entitled to: (a) injunctive relief without the requirement to post a bond; (b) liquidated damages in the amount of Thirty Thousand Pounds (£30,000.00); and (c) any other remedies that Company may have at law or in equity.

11) Limitation of Liability – Disclaimer of Warranty

IN NO EVENT SHALL COMPANY BE LIABLE TO YOU OR ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, ANY CUSTOMERS OBTAINED THROUGH YOUR MARKETING EFFORTS) FOR ANY DAMAGES OF ANY KIND ARISING FROM OR RELATED TO YOUR USE OF THE WEBSITE, SERVICE, WEBSITE DATA, OPERATION OF A PROGRAM, MERCHANTS' UNDERLYING PRODUCTS AND/OR SERVICES OR YOUR DISPLAY OF ANY CREATIVE OR OFFERS ON OR THROUGH YOUR AFFILIATE WEBSITES AND/OR AFFILIATE E-MAILS AND/OR ANY OTHER COMPANY INTELLECTUAL PROPERTY INCLUDING, BUT NOT LIMITED TO, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE AND/OR CONSEQUENTIAL DAMAGES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMPANY'S MAXIMUM AGGREGATE LIABILITY TO AFFILIATE AND ANY THIRD PARTY UNDER ANY AND ALL CIRCUMSTANCES SHALL BE THREE HUNDRED POUNDS (£300.00). AFFILIATE RECOGNIZES AND ACKNOWLEDGES THAT THIS LIMITATION OF DAMAGES IS FAIR AND REASONABLE. THE WEBSITE, SERVICE, CREATIVE, OFFERS, PROGRAMS, WEBSITE DATA, MERCHANTS' UNDERLYING PRODUCTS AND SERVICES, INFORMATION AND CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ALL WARRANTIES, EXPRESS AND IMPLIED, ARE DISCLAIMED (INCLUDING, WITHOUT LIMITATION, THE DISCLAIMER OF ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY AND/OR FITNESS FOR A PARTICULAR PURPOSE). THE WEBSITE, SERVICE, CREATIVE, OFFERS, PROGRAMS, WEBSITE DATA AND/OR MERCHANTS' UNDERLYING PRODUCTS AND SERVICES MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS. COMPANY HAS NO LIABILITY, WHATSOEVER, TO AFFILIATE OR ANY THIRD PARTY, FOR AFFILIATE'S USE OF, OR INABILITY TO USE, THE WEBSITE, SERVICE, CREATIVE, OFFERS, PROGRAMS, WEBSITE DATA AND/OR MERCHANTS' UNDERLYING PRODUCTS OR SERVICES AND COMPANY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, THAT AFFILIATE'S USE OF SAME WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ANY OF THE PROGRAMS WILL BE AVAILABLE TO AFFILIATE. THE NEGATION OF DAMAGES SET FORTH HEREINABOVE IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND AFFILIATE. THE WEBSITE, SERVICE,



CREATIVE, OFFERS, PROGRAMS, WEBSITE DATA AND/OR MERCHANTS' UNDERLYING PRODUCTS AND SERVICES WOULD NOT BE PROVIDED TO AFFILIATE WITHOUT SUCH LIMITATIONS. COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY RESULTS OBTAINABLE THROUGH THE WEBSITE, SERVICE, CREATIVE, OFFERS, WEBSITE DATA AND/OR PROGRAMS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY AFFILIATE FROM COMPANY THROUGH THE WEBSITE, SERVICE, CREATIVE, OFFERS, WEBSITE DATA AND/OR PROGRAMS SHALL CREATE ANY WARRANTY, REPRESENTATION AND/OR GUARANTEE NOT EXPRESSLY STATED IN THE AGREEMENT.

12) Indemnity

You shall indemnify, defend and hold Company, its Merchants, their parents, affiliates and/or subsidiaries, and each of their respective officers, partners, members, managers, employees, agents and attorneys, harmless from and against any and all claims, allegations, liabilities, costs and expenses (including reasonable attorneys' fees and the cost of indemnifying third parties) arising out of or related to: (i) Your use of the Website, Service, Creative, Website Data or any Offer(s), in any manner whatsoever; (ii) any third party claim related to Your Affiliate Websites, Affiliate Databases, Affiliate E-mails and/or Your marketing practices; (iii) any content, goods or services offered, sold or otherwise made available by You on or through Your Affiliate Websites, Affiliate E-mails or otherwise; (iv) any claim that Company is obligated to pay any taxes in connection with payment made to You in connection with the Agreement and/or any Program; (v) breach or violation of the Agreement and/or any representation or warranty contained herein; and/or (vi) the acts and/or omissions of any Sub-Affiliates. Company shall indemnify, defend and hold You harmless from and against any and all claims, allegations, liabilities, costs and expenses (including reasonable legal fees) by third parties arising out of any actual infringement of intellectual property rights resulting from Your display of the Creative provided in connection with any Program. Without limiting the foregoing, Affiliate agrees and acknowledges that it shall be fully responsible for any and all taxes, whether state or local, and related fees, costs and penalties incurred by Company and/or any of its Merchants.

13) Assignment, Sub-Affiliates and Jurisdiction

Company may assign the Agreement with or without Your consent. You may not assign the Agreement without the prior written consent of Company, which may be withheld for any reason. The Agreement will be binding on, inure to the benefit of and be enforceable against, the Parties' respective successors and assigns. Affiliate may desire to use its business partners and/or associates to fulfil the obligations or exercise the rights under a particular Program. For purposes of the Agreement, each of Affiliate's business partners or associates that participate in or perform any activities on behalf of Affiliate under the Agreement shall be considered to be a "Sub-Affiliate." Company reserves the right to review and approve or reject any and all Sub-Affiliates and may revoke a prior approval of any Sub-Affiliate at any time and for any reason. Sub-Affiliates must meet the same criteria for approval as the Affiliate as set forth in the Agreement and must comply with all the terms and conditions that are applicable to Affiliate under the Agreement and the applicable Program terms. Affiliate is responsible for and shall fully and unconditionally indemnify Company for any and all acts or omissions of any of its Sub-Affiliates, including the payment of legal fees and costs if necessary. Further, Company may, at its sole discretion, terminate Affiliate at any time based on the acts and/or omissions of Affiliate's Sub-Affiliate(s). Once express approval of a Sub-Affiliate has been granted by Company, notices to Affiliate shall be deemed notice to that Affiliate's approved Sub-Affiliate(s). Company reserves the right to withhold or refuse payment to Affiliate in the event that any of its Sub-Affiliates breach the Agreement.

The Agreement shall be construed and governed by the laws of the UK, without regard to its conflict of laws principles. Any and all disputes or controversies whether of law or fact of any nature whatsoever arising from or respecting the Agreement shall be decided by arbitration by the UK Arbitration Association ("Arbitrator"), in accordance with the then current Commercial Rules of the Arbitrator. Arbitration shall take place in London, UK. At the request of Company, arbitration proceedings will be conducted in secrecy. In such case, all documents, testimony and records shall be received, heard and maintained by Arbitrator in secrecy under seal, available for the inspection only by Company or Affiliate and by their respective solicitors who shall have agreed, in advance and in writing, to receive all such information confidentially and to maintain such information in secrecy. Arbitrator shall be able to decree any and all relief of an equitable nature including, but not limited to, such relief as a temporary restraining order, a temporary and/or a permanent injunction, and shall also be able to award damages, with or without an accounting and costs. Company shall be entitled to an award of its reasonable costs and expenses, including solicitors' fees, in any action or proceeding in connection with, arising out of, or under the Agreement. Nothing contained herein shall prevent either Party from seeking injunctive relief pending an outcome in arbitration. The Agreement shall not be governed by the United Nations Convention on Contracts for the Sale of Goods. To the extent permitted by law, You agree that You will not bring, join or participate in any class action lawsuit as to any claim, dispute or controversy that You may have against Company, its employees, officers, directors, members, representatives and/or assigns. You agree to the entry of injunctive relief to stop such a lawsuit or to remove You as a participant in the suit. You agree to pay the solicitors' fees and court costs that Company incurs in seeking such relief.



14) Severability

If any provision of the Agreement is held to be invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions of the Agreement, and the Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

15) Force Majeure

Neither Party shall be liable to the other by reason of failure or delay in the performance of its obligations hereunder on account of telecommunications, Internet or network failure or interruption, interruption or failure of telecommunication or digital transmission links, results of computer hacking, hostile network attacks, the unavailability, operation, or inaccessibility of websites or interfaces, network congestion or other failures, Acts of God, fires, storms, war, governmental action, labour conditions, earthquakes, natural disasters or any other cause which is beyond the reasonable control of such Party. Affiliate understands and agrees that on occasion that the Service and/or Website may be inaccessible, unavailable or inoperable for any reason including, but not limited to, the following: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs; or (iii) causes beyond the control of Company or which are not reasonably foreseeable by Company including, but not limited to, the aforementioned force majeure events. Company will attempt to provide the Service on a continuous basis. However, Affiliate acknowledges and agrees that Company has no control over the availability of the Service on a continuous or uninterrupted basis. The terms of the Agreement are subject to Company hardware, software, and bandwidth traffic limitations. Company's failure to deliver because of technical difficulties does not represent a failure to meet the obligations of the Agreement.

16) Solicitor's Fees

Company shall be entitled to an award of its reasonable costs and expenses, including solicitor's fees, in any action or proceeding arising out of the Agreement.

17) Miscellaneous

You agree that any unauthorised and/or unlawful use of the Website, Service, Creative, Offers, Website Data and/or Programs would result in irreparable injury to Company for which monetary damages would be inadequate. In such event, Company shall have the right, in addition to other remedies available to it pursuant to the Agreement, to immediate injunctive relief against You without the need to post a bond. Nothing contained in the Agreement shall be construed to limit any legal remedies available to Company. The Agreement, together with the AUPs and Privacy Policy, contains the sole and entire agreement and understanding between the Parties relating to the subject matter hereof, and merges all prior discussions, whether through officers, directors, salespersons, employees or consultants. Each Party is an independent contractor and not a partner, joint venturer or employee of the other. Neither Party shall have the right to bind the other or to incur any obligation on the other's behalf. All notices shall be sent to the addresses submitted by You when signing up for the service by certified mail, fax, email or courier. Company's failure to enforce any provision of the Agreement shall not be deemed a waiver of such provision nor of the right to enforce such provision. Company reserves the right to change any of the terms and/or conditions of the Agreement at any time, with or without notice to You.