

# MONET

## Perks Marketplace

### Standard Terms for Publishers “Standard Terms”, incorporating Pilot

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## Background

Monet Money Limited (Monet) is the Software as a Service (SaaS) provider in which its technology and services aggregate a network of perks, discounts, offers and incentives across multiple vendors and enables community owners to promote to their members via a white-label setup.

The SaaS and Publisher terms and conditions below are the general terms and conditions (as amended or replaced from time to time) which apply to the Publisher's use of the Monet software and related services available through Monet's Platform and API.

By ticking the box 'I accept', the Customer agrees to follow and be bound by the terms and conditions below, whether in connection with a paid or free subscription.

If you are an individual entering into these terms on behalf of an Organisation, you represent that you have authority to bind such Organisation to the terms and conditions. If you do not have authority, then you will not be able to use the Platform.

## Agreed terms

### 1. Interpretation

1.1. 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;

**API:** the application programme interfaces of the Monet platform and system;

**Admin:** means a single Authorised User with full access to, and control

of, the Publisher Account and which is at all times authorised to act on behalf of the Publisher and bind the Publisher;

**Advertiser:** means a Person which has agreed with Monet or an Monet 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 Monet, the Publisher or a Sub Publisher, also referred to as "Offers";

**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;

**Application:** the Publisher's software system developed to provide services to its end user customers and which integrates with Monet's API and/or Platform, and any other Monet software and associated services provided by Monet to the Publisher for the purpose of providing access to Advertisers, Offers and data;;

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

**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, and subject to any agreement for the sharing of such amounts with third parties;

**Commission Library:** The list of all commissions for Programs which are available to you. You will find all Commission details in the Campaign Library within Monet's Platform including earnings, structure

and key terms;

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

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

**Customer:** means the organisation purchasing the User Subscriptions of this agreement, also referred to as the "**Publisher**";

**Customer Personal Data:** any personal data which Monet processes in connection with the Agreement, in the capacity of a processor on behalf of the Customer;

**Effective Date:** means the date of acceptance of the Application Form by Monet;

**EU GDPR:** the General Data Protection Regulation ((EU) 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;

**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;

**Monet:** means Monet Money Limited and any other company within Monet Group Company;

**Monet Personal Data:** any personal data which Monet processes in connection with the Agreement, in the capacity of a controller;

**Normal Business Hours:** 9.00am to 5.00pm local UK time, sometimes referred to as Business Day;

**Network Fee:** means the fee payable to Monet or an Monet 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 Monet and an Advertiser;

**Pilot:** The Pilot is a trial period in which the Publisher can use Monet's Services and Platform to its fully available limits with terms that override the Standard Terms for the duration of the Pilot period, in accordance with the terms set out in Clause 3.1;

**Platform:** Monet's platform at <https://monet.money/> and any subdomains or other domains owned or licensed by Monet, including the use of Monet's tracking platform account;

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

**Production Environment:** the the part of the Monet Platform and API through which you can access the Services of Monet and our Service Partners and launch your Application;

**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;

**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;

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

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

**Software:** the online software application, accessible via .monet.money or any other address notified by Monet to the Publisher from time to time, provided by Monet to the Publisher as part of the Services; "Sale"

means the agreed purchase of a Product by a Visitor in the Tracking Period, as reported by the Tracking Code;

**Subscription Fees:** the subscription fees payable by the Publisher to Monet (if any) for the User Subscriptions, as agreed between Monet and the Publisher set out in the order process;

**Subpublisher:** means the operator of a website, application or service, which has agreed with the Publisher to market Advertisers on their domain through contractual relationship or by being members of the same group company;

**Suspension:** means the suspension by Monet or any Monet Group Company of the Publisher's participation in the Network 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;

**Tracking Code:** means the Monet 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;

**Vulnerability:** a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly;

**White-Label Platform:** the technology provided by Monet can be customised to look and operate like the Publishers own IP and technology. White-label means the service offered by Monet can be hosted on the Publishers own subdomain of their choosing.

## 2. Joining the network

2.1. By submitting an Application Form, or by accessing the Interface, the Person named in the Application Form (the "**Publisher**") is offering to participate in the Network, 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 Monet's privacy policy, which can be found here: <https://www.monet.money/legal/privacy-policy>.

2.2. Acceptance of the Application Form is subject to the sole discretion of MONET Money Limited ("**Monet**") of 5 Merchant Square, London, W2 1AY, incorporated in Isle of Man with company number 134021C.



Acceptance or rejection of the Application Form will be notified to the proposed Publisher by email.

- 2.3. On acceptance of the Application Form by Monet, the Application Form and these Standard Terms, including the applicable data processing annex(es), will together constitute a legally binding **"Agreement"** entered into by Monet and the Publisher. On rejection of the Application Form, no agreement will be formed.
- 2.4. The Publisher is the operator of a website, application or service (including email service), or is a Subpublisher. By entering this Agreement with Monet, the Publisher will join the Network to market Advertisers or their Products via API or in the White-Label platform.
- 2.5. This Agreement prevails over any terms supplied by the Publisher.
- 2.6. 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.

### **3. Pilot**

- 3.1. Monet and the Publisher will immediately enter a trial phase named the **"Pilot"** from the Effective Date of this agreement:
  - 3.1.1. During the Pilot phase, Monet will not charge Subscription fees in relation to those detailed in clauses 4 and 5;
  - 3.1.2. The Pilot phase will have a duration of 8 weeks from the Effective Date of this agreement;

- 3.1.3. The Publisher will have full use of Monet's services during the Pilot phase, with exception from features yet available in Production environment;
- 3.1.4. The Publisher and Monet may terminate services with two weeks notice to the other party, overriding clauses 18 and 19;
- 3.1.5. During the Pilot phase, the Commission Library will be accessible as a hosted document, detailing all commission structures for the Programs available to you;
- 3.1.6. Upon the expiry of the Pilot phase, Monet will notify the Publisher of their right to a) continue their use of Monet's services and platform, or b) end the contractual relationship with Monet without any fees or charges;
  - 3.1.6.1. The Publisher must notify Monet in writing of their decision to end their use of services on the end date of the Pilot phase;
  - 3.1.6.2. If the Publisher chooses to continue using Monet's services, clauses 4, 5, 18 and 19 will come into effect immediately after the Pilot end date
  - 3.1.6.3. The Publisher and Monet agree that the Publisher will continue this agreement by a) notifying Monet or b) continuing to access Monet's Platform and Services after the end date of the Pilot phase.
  - 3.1.6.4. If the Publisher chooses to terminate their relationship with Monet, all Commissions and bonuses earned to date will be paid to the Publisher within 30 days, and all future Commissions from the Sales will be forfeited by the Publisher;

- 3.1.7. During the Pilot period and thereafter, all Standard Terms in this agreement which have not been declared overridden by Clause 3 are applicable and enforceable by both parties.

#### **4. Subscription**

- 4.1. Subject to the Publisher purchasing the Subscription in accordance with clause 5.1, the restrictions set out in this clause 4 and the other terms and conditions of the Agreement, Monet hereby grants to the Publisher a non-exclusive, non-transferable right, without the right to express grant sublicenses, to permit the Publisher and its Authorised Users to use the Services during the Subscription Term solely for the Publisher's own assets and users;
- 4.2. In relation to Authorised Users of the Publisher the Publisher undertakes that:
  - 4.2.1. each Authorised User shall keep a secure password for their use of the Services, that such password shall be changed no less frequently than once every 6 months, and that each Authorised User shall keep their password confidential;
  - 4.2.2. it shall permit Monet or its designated auditor to audit the Services in order to establish the name and password of each Authorised User and the Publisher's data processing facilities to audit compliance with the Agreement. Each such audit may be conducted no more than once per quarter, at Monet's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Publisher's normal conduct of business;
  - 4.2.3. if any of the audits referred to in clause 4.2.2 reveal that the Publisher has underpaid Subscription Fees to Monet, then

without prejudice to Monet's other rights, the Publisher shall pay to Monet an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

4.3. The Publisher shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

4.3.1. Is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

4.3.2. facilitates illegal activity;

4.3.3. depicts sexually explicit images;

4.3.4. promotes unlawful violence;

4.3.5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

4.3.6. is otherwise illegal or causes damage or injury to any person or property;

4.3.7. and Monet reserves the right, without liability or prejudice to its other rights to the Publisher, to disable the Publisher's access to any material that breaches the provisions of this clause.

4.4. The Publisher shall not:

4.4.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement:

4.4.2. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or

- 4.4.3. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
  - 4.4.4. access all or any part of the Services in order to build a product or service which competes with the Services;
  - 4.4.5. use the Services to provide services to third parties without Monet's knowledge; or
  - 4.4.6. subject to clause 26, licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users and Publisher Service, or
  - 4.4.7. attempt to obtain, or assist third parties in obtaining access to the Services, other than as provided under this clause 2; or
  - 4.4.8. introduce or permit the introduction of any Virus or Vulnerability into Monet's network and information systems.
- 4.5. The Publisher shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services, and, in the event of any such unauthorised access or use, promptly notify Monet.
- 4.6. The rights provided under this clause 4 are granted to the Publisher only, and shall not be considered granted to any subsidiary or holding company of the Publisher.

## **5. Subscription charges and payment**

- 5.1. The Publisher shall pay the Subscription Fees to Monet for the User Subscriptions in accordance with this clause 5 as agreed during the order process:
- 5.2. If Monet does not receive any amount due by the Publisher, and without prejudice to any other rights and remedies of Monet:

- 5.2.1. Monet may, without liability to the Publisher, disable the Publisher's password, account and access to all or part of the Services and Monet shall be under no obligation to provide any or all of the Services or Commissions while the invoice(s) concerned remain unpaid; and
- 5.2.2. If there are Commissions to be paid to the Publisher, Monet may at its discretion choose to collect owed Subscription funds by way of discounting the Commission payment to the Publisher;
- 5.3. All amounts and fees stated or referred to in the Agreement:
  - 5.3.1. shall be payable in pounds sterling;
  - 5.3.2. are, subject to clause 17, non-cancellable and non-refundable; and
  - 5.3.3. are exclusive of value added tax, which shall be added to Monet's invoice(s) at the appropriate rate.

## **6. Publishers Relationship with Advertisers**

- 6.1. The Publisher's participation in the Network does not create any contract between the Publisher and any Advertiser;
- 6.2. 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 where payments are made to the Publisher in respect of any marketing services (including but not limited to affiliate, display, programmatic, search, email and click-to-call marketing) other than under this Agreement, without Monet's prior written approval.
- 6.3. The Publisher may promote Advertisers which have an agreement with the Publisher directly, where Monet does not already have an agreement with the Advertiser.

- 6.4. The Publisher may not create and promote a direct relationship with an Advertiser already listed as an Advertiser on the Monet Platform and Services.

## **7. Actions, Commissions and Bonuses**

- 7.1. The amount of any Commissions is as may be displayed on the Interface or upon notification by Monet in a Statement of Account.
- 7.2. The Commission model for each Advertiser can be viewed in the Commissions Library within the Platform interface.
- 7.3. The Publisher accepts that Commissions may change from time-to-time and this will be communicated by Monet in writing, or by updating the Commissions Library.
- 7.4. CPA Commissions in respect of Approved Sales will be determined as either:
  - 7.4.1. a percentage of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface; or
  - 7.4.2. a fixed amount, irrespective of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface.
- 7.5. Revenue Share commissions in respect of approved sales will be determined as either:
  - 7.5.1. A recurring percentage fee based on the sale value each time a referred customer spends with the Advertiser for the duration of the customers relationship with the advertiser
  - 7.5.2. A percentage fee based on the value of an approved sale made by the customer with the Advertiser, for an agreed duration of time or quantity of sales, varying between Advertiser terms

- 7.6. Advertisers may change the amount of Commission offered on notice to Publishers. Monet will use reasonable endeavours to procure that Advertiser's reductions of the amount of Commissions offered shall take effect seven days after notification.
- 7.7. Bonuses may be agreed by the Publisher and Advertisers at their discretion and must be processed via Monet.
- 7.8. Commissions and Bonuses shall only be due for invoicing and payment:
  - 7.8.1. on receipt by Monet of the corresponding payment in respect of that Action from the Advertiser; and
  - 7.8.2. in respect of Actions procured in accordance with this Agreement and any applicable Program Terms.
- 7.9. Without prejudice to any other rights or remedies of Monet, if Monet reasonably suspects that any Commissions paid under this Agreement have been generated in breach of this Agreement, Monet 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 Monet and the Publisher). Such deduction shall constitute a genuine pre-estimation of the loss suffered by Monet as a result of the payment of such Commission in breach of this Agreement.

## **8. Invoicing and Payments**

- 8.1. The Sign Up Deposit will be refunded to the Publisher on first payment of any Commission.
- 8.2. Monet will pay the Publisher:
  - 8.2.1. Commissions in respect of each Approved Sale, Approved Lead, Clicks or one thousand Ad Impressions; and
  - 8.2.2. Bonuses agreed between the Publisher and Advertisers.



- 8.3. Payment of Commissions and Bonuses may be subject to any Advertiser Terms.
- 8.4. Self-billing invoices for Commissions and Bonuses can be accessed by the Publisher via the Platform. Self-billing will be implemented as follows:
  - 8.4.1. the Publisher agrees not to issue invoices for any Commissions and Bonuses generated under this Agreement;
  - 8.4.2. Monet 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 Monet and the Publisher;
  - 8.4.3. the Publisher will immediately notify Monet if it transfers any part of its business as a going concern;
  - 8.4.4. 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;
  - 8.4.5. Monet may engage third party service providers to administer the issuing of self billing invoices under this Agreement.
- 8.5. Monet will pay all self-billed invoices subject to:
  - 8.5.1. any minimum payment thresholds implemented by Monet from time to time being satisfied;
  - 8.5.2. the correct, accurate and complete bank and tax information of the Publisher being shown on the Interface;
  - 8.5.3. the provision of any additional information reasonably requested by Monet in respect of the Publisher's location or residence;
  - 8.5.4. the payment not being subject to any internal audits or 'network quality' reviews from time to time.

- 8.6. All payments will be made to the bank account nominated by the Publisher in the 'Payment Details' section of the respective Publisher Account on the Interface. Monet 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.
- 8.7. All sums payable under this Agreement shall be exclusive of VAT unless stated by Monet, which, if applicable, shall be added at the appropriate rate. VAT shall be paid by the Party liable to pay VAT pursuant to applicable law. If payments under this Agreement are subject to withholding tax, Monet 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.
- 8.8. 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. For example, the Publisher may select a deviating payment currency in the Publisher Account. In such case, payments will be made by Monet in the original amount and currency to a third party service provider, who will subsequently convert the currency and transfer the converted payment to the Publisher's nominated bank account. The conversion rate that is used for such conversions will be below the official bank rates in order to cover the cost for this service.

## **9. Marketing**

- 9.1. Advertisers may remove Publishers from Advertiser Programs, at any time 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 Platform.
- 9.2. Advertisers may apply Program Terms and make changes to any 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 of Monet and its Advertisers;
- 9.3. Subject to the Publisher's compliance with this Agreement and the Program Terms, and the continued approval of the respective Advertiser, Monet will provide to the Publisher the Advertiser Materials.
- 9.4. Monet, 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.
- 9.5. Monet may deactivate any Links on request of the respective Advertiser, or at its sole discretion.
- 9.6. The Publisher shall remove any Advertiser Materials from the Publisher Service immediately on request of either the Advertiser or Monet.
- 9.7. Monet will use reasonable endeavours 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.

9.8. The Publisher agrees that from time to time, Monet may showcase the Publisher in various forms of content and placements as marketing material for Monet's Services, Platform and other business activities.

9.8.1. Monet will notify the Publisher ahead of any marketing promotion which includes the Publisher

9.8.2. The Publisher may choose to opt out of any promotion by notifying Monet at Marketing@monet.money

## **10. Tracking and Validation**

10.1. The Tracking Code and Program Terms will be 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.

10.2. Sales 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 each case subject to any communicated "cookie hierarchy" or "commission hierarchy".

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

## **11. Third party providers**

11.1. The Publisher acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products

and services from, third parties via third-party websites and that it does so solely at its own risk. Monet makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Publisher, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Publisher and the relevant third party, and not Monet. Monet recommends that the Publisher refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Monet does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

- 11.2. The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **12. Monet's obligations**

- 12.1. Monet undertakes that the Services will be performed with reasonable skill and care.
- 12.2. The undertaking at clause 12.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Monet's instructions, or modification or alteration of the Services by any party other than Monet or Monet's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Monet will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Publisher

with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Publisher's sole and exclusive remedy for any breach of the undertaking set out in clause 12.1.

12.3. Monet:

12.3.1. does not warrant that:

12.3.1.1. the Publisher's use of the Services will be uninterrupted or error-free;

12.3.1.2. the Services, and/or the information obtained by the Publisher through the Services will meet the Publisher's requirements;

12.3.1.3. the Software or the Services will be free from Vulnerabilities or Viruses; or

12.3.1.4. the Software or the Services will comply with any Heightened Cybersecurity Requirements;

12.3.2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Publisher acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

12.4. The Agreement shall not prevent Monet from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Agreement.

12.5. Monet warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its

obligations under the Agreement.

### **13. Publisher's obligations**

13.1. The Publisher shall:

13.1.1. provide Monet with:

13.1.1.1. all necessary cooperation in relation to the Agreement;  
and

13.1.1.2. all necessary access to such information and documentation as may be required by Monet;  
in order to provide the Services, including but not limited to any necessary Publisher Personal Data, Monet Personal Data, security access information and configuration services;

13.1.2. without affecting its other obligations under the Agreement, comply with all applicable laws and regulations with respect to its activities under the Agreement;

13.1.3. carry out all other Publisher responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Publisher's provision of such assistance as agreed by the parties, Monet may adjust any agreed timetable or delivery schedule as reasonably necessary;

13.1.4. ensure that the Authorised Users use the Services in accordance with the terms and conditions of the Agreement and shall be responsible for any Authorised User's breach of the Agreement;

13.1.5. obtain and shall maintain all necessary licences, consents, and permissions necessary for Monet, its contractors and agents to perform their obligations under the Agreement, including without limitation the Services;

- 13.1.6. ensure that its network and systems comply with the relevant specifications provided by Monet from time to time; and
  - 13.1.7. be, to the extent permitted by law and except as otherwise expressly provided in the Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Monet's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Publisher's network connections or telecommunications links or caused by the internet.
- 13.2. The Publisher acknowledges and agrees that:
- 13.2.1. Monet may publish the Publisher's name in a list of Monet customers, on its website, or otherwise; and



13.2.2. Monet may refer to the Publisher, orally or in writing, as a customer of the Services for promotional and marketing purposes.

#### **14. Proprietary rights**

- 14.1. The Publisher acknowledges and agrees that Monet and/or its licensors own all intellectual property rights in the Services. Except as expressly stated herein, the Agreement does not grant the Publisher any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services.
- 14.2. Monet confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Agreement.

#### **15. Confidentiality**

- 15.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. A party's Confidential Information shall not be deemed to include information that:
- 15.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
  - 15.1.2. was in the other party's lawful possession before the disclosure;
  - 15.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
  - 15.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence.

- 15.2. Subject to clause 15.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Agreement.
- 15.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.
- 15.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 15.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 15.5. The Publisher acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Monet's Confidential Information.
- 15.6. the Publisher shall not make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of Monet, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

15.7. The above provisions of this clause 15 shall survive termination of the Agreement, however arising.

## **16. Indemnity**

16.1. The Publisher shall defend, indemnify and hold harmless Monet against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Publisher's use of the Services.

## **17. Limitation of liability**

17.1. This clause 12 sets out the entire financial liability of Monet (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Publisher, and its Authorised Users:

17.1.1. arising under or in connection with the Agreement;

17.1.2. in respect of any use made by the Publisher or its Authorised Users of the Services or any part of them; and

17.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

17.2. Except as expressly and specifically provided in the Agreement:

17.2.1. the Publisher assumes sole responsibility for results obtained from the use of the Services by the Publisher, and for conclusions drawn from such use. Monet shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Monet by the Publisher in connection with the Services, or any actions taken by Monet at the Publisher's direction;

- 17.2.2. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement; and
- 17.2.3. the Services are provided to the Publisher on an "as is" basis.
- 17.3. Nothing in the Agreement excludes the liability of Monet:
  - 17.3.1. for death or personal injury caused by Monet's negligence; or
  - 17.3.2. for fraud or fraudulent misrepresentation.
- 17.4. Subject to clause 17.1 and clause 17.3:
  - 17.4.1. Monet shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and
  - 17.4.2. Monet's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the total Subscription Fees paid by the Publisher during the 12 months immediately preceding the date on which the claim arose.

## **18. Termination and Suspension**

- 18.1. This Agreement will start on the Effective Date and continue until terminated in accordance with its terms.

- 18.2. Either party may terminate the Agreement on 30 days' written notice to the other party for any reason.
- 18.3. Without prejudice to its other rights or remedies, a party may terminate the Agreement immediately on written notice to the other party, if:
  - 18.3.1. the other party materially breaches this Agreement;
  - 18.3.2. 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.
- 18.4. Monet may terminate this Agreement or Suspend the Publisher, immediately on written notice, if the Publisher:
  - 18.4.1. 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;
  - 18.4.2. is reasonably suspected by Monet to have breached any:
    - 18.4.2.1. of the warranties at within this Agreement;
    - 18.4.2.2. Program Terms of an Advertiser;
  - 18.4.3. Monet may terminate this Agreement, immediately on written notice, if the Publisher undergoes a Change of Control.

## **19. Consequences of Termination and Suspension**

- 19.1. During any period of Suspension:
  - 19.1.1. the Publisher is not permitted to access the Interface;

- 19.1.2. all licences will be Suspended and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;
  - 19.1.3. Monet may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able);  
and
  - 19.1.4. no further payments will be made to the Publisher.
- 19.2. On termination of the Agreement:
- 19.2.1. all licences will terminate and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;
  - 19.2.2. Monet may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able);
  - 19.2.3. each party will return or at the other party's option destroy all confidential information in its possession within five Business Days; and
  - 19.2.4. unless terminated by Monet under clauses 18.3 or 18.4, Monet will pay all outstanding Commissions and Bonuses due to the Publisher;
  - 19.2.5. by Monet under clauses 18.3 or 18.4 all unpaid Commissions as of the date of termination, or accruing after the date of termination, shall be forfeited to Monet irrevocably and the Publisher hereby waives any right or entitlement to recover such Commissions and Bonuses from Monet.
- 19.3. Termination of this Agreement will not affect any existing rights or remedies.

## 20. Entire agreement

- 20.1. The Agreement and the Factoring Terms and Conditions (where applicable for the purposes of Monet providing services to the Publisher) constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 20.2. Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 20.3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.
- 20.4. Nothing in this clause shall limit or exclude any liability for fraud.

## 21. General

- 21.1. Monet may change the terms of this Agreement on 14 days' notice to the Publisher.
- 21.2. Certain functionalities or services offered by Monet or third parties may be subject to additional terms. Such terms will be communicated to the Publisher before those functionalities or services are supplied, including by displaying on the Interface.
- 21.3. Monet may set off any liability of the Publisher against any liability of Monet.
- 21.4. 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.

- 21.5. The Publisher may not assign or subcontract its rights or obligations under this Agreement in whole or part without Monet's prior written consent. Monet may assign or subcontract its rights or obligations under this Agreement, including to an Monet Group Company.
- 21.6. 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.
- 21.7. A Person who is not a party to this Agreement will not have any statutory rights under or in connection with it.
- 21.8. A counterpart of this Agreement executed and/or transmitted electronically shall be treated as fully binding and with full legal force and effect.
- 21.9. 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.
- 21.10. This Agreement is governed by the law of England and Wales and the courts of England and Wales have exclusive jurisdiction.
- 21.11. The Publisher is aware that this Agreement is originally drawn up in English. The Publisher is aware of and accepts that, in the event of any inconsistencies or differences of interpretation between the English version and a translated version, this English version shall always prevail.



## **22. Waiver**

No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **23. Force majeure**

Monet shall have no liability to the Publisher under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Monet or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, epidemic or pandemic, or default of suppliers or subcontractors, provided that the Publisher is notified of such an event and its expected duration.

## **24. Severance**

- 24.1. If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Agreement.
- 24.2. If any provision or part-provision of the Agreement is deemed deleted under clause 24.1 the parties shall negotiate in good faith to agree a

replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **25. No partnership or agency**

Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **26. Assignment**

- 26.1. The Publisher shall not, without the prior written consent of Monet, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 26.2. Monet may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

## **27. Governing law**

The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

## **28. Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).