



Snack Media Online Advertising Network Terms and Conditions

These Snack Media Online Advertising Network Terms and Conditions (“**Terms and Conditions**”), together with the supplementary cover sheet (the “**Cover Sheet**”), which is incorporated herein, collectively form the Snack Media Online Advertising Representation Agreement for Publishers (the “**Agreement**”) which governs the Publisher’s participation in Snack Media’s online advertising network (“**Snack Media Network**”). In the event of any inconsistency between the Terms and Conditions and the Cover Sheet, the Cover Sheet shall prevail.

1. INTERPRETATION

1.1 Definitions:

“**Advertiser**” means a potential or actual Advertising customer of the Publisher.

“**Advertiser Social Media Activity**” means content produced and/or posted by Snack Media (under the instruction of the Advertiser) on a Publisher Property, in accordance with and subject to Section 7.1.

“**Advertising**” means any advertising, sponsorship, social media or other paid content or other commercial revenue-generating activity.

“**Approved Costs**” means any and all costs reasonably incurred by Snack Media in connection with its activities in generating the Incoming Revenue, including: (a) costs incurred in connection with the sale of Advertising to an Advertiser on behalf of a Publisher; (b) administrative, ad serving and tech vendor costs; and (c) paywall provider and other ecommerce solution costs.

“**Commission**” means the consideration payable to Snack Media for the Services, calculated as the percentage of Net Revenue or Net Advertising Revenue (as applicable) stipulated on the Cover Sheet.

“**Fan Engagement Tools**” means such products and services as may be provided or made available by Snack Media to the Publisher from time to time, which are intended to increase the time spent by users on the Publisher Properties and the number of Publisher Pages viewed.

“**Impressions**” means the exact number of times a Publisher Property has been accessed or viewed by a user.

“**Incoming Revenue**” means revenue from: (a) an Advertiser (or its agency) for the Advertising, (which shall be payable by an Advertiser (or its agency) to Snack Media (as agent for a Publisher) less the Advertiser’s agency fees); (b) the licensing of Publisher Content by Snack Media on behalf of the Publisher (and including subscription fees which may be paid by consumers for “paywalled” Publisher Content); and (c) any other commercial revenue generating activity undertaken by Snack Media on behalf of the Publisher (including the deployment or implementation of products, tools or services on the Publisher Property, ecommerce solutions, data sales, content sales and other direct to consumer sales).

“**Intellectual Property Rights**” means patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and any and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from,



such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“Marks” means a party’s trademarks (registered or unregistered), logos, trade dress and any other form of visual identity of that party’s brand.

“Net Revenue” or **“Net Advertising Revenue”** means the Incoming Revenue less the Approved Costs.

“Net Balance” means the balance of the Net Revenue or Net Advertising Revenue (as applicable) after Snack Media has deducted the Commission.

“Network Tags” means scripts provided by Snack Media that are designed to be inserted into the code of the Publisher Pages, which scripts communicate with servers designated by Snack Media.

“Prohibited Content” means any content that: (i) contains or promotes concepts that are hateful or disparaging towards any race, religion, gender, sexual orientation or nationality; (ii) promotes firearms, bombs and other weapons or how-to guides for any of the foregoing; (iii) contains or promotes pornography or graphic sexual depictions; (iv) contains, promotes or links to indecent, obscene or highly explosive subject matter; or (v) facilitates or promotes any illegal activity, including without limitation hacking, phreaking, illegal file-sharing (torrents, copyright protected video, or the equivalent).

“Publisher Content” means any content published on a Publisher Property which Snack Media may license to a third-party pursuant to and in accordance with Section 5.2.

“Publisher Page” means a page on a Publisher Property.

“Publisher Properties” means any website and/or mobile application owned or operated by the Publisher whether referred to on the Cover Sheet or launched/published since the Effective Date.

“Revenues” means money generated from any form of Advertising.

“Services” means the services provided by Snack Media in connection with the generation of Incoming Revenue, including without limitation the sale and syndication of Advertising on one or more Publisher Properties on behalf of the Publisher, the licensing of Publisher Content and the provision of the Fan Engagement Tools.

“Third-Party Content” means content from a variety of sources including links to other websites on the internet, content made available on the Snack Media Ad Network by other users, and Advertising content provided by Advertising customers in accordance with Section 11.2.

1.2 Interpretation. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. APPOINTMENT

2.1 Appointment. As of the Effective Date the Publisher appoints Snack Media, and Snack Media agrees to act, as the sole and exclusive provider of the Services to the Publisher during the term of this Agreement.



2.2 Exclusivity. By participating in the Ad Network, the Publisher gives Snack Media the exclusive world-wide right to sell and syndicate Advertising, social media activity and content, and to undertake other commercial revenue generating activity on its behalf in accordance with, and subject to, this Agreement.

3. PUBLISHER OBLIGATIONS AND WARRANTIES

3.1 Accuracy of Information. The parties acknowledge that Snack Media's ability to generate long-term Revenues for the Publisher is reliant upon the accuracy of the information supplied by the Publisher in relation to the Publisher Properties and efficient control over the relevant ad-serving systems and processes.

3.2 Warranties. In consideration of Section 3.1, during the Term of this Agreement the Publisher warrants that:

- (a) The terms of the Cover Sheet are complete and accurate;
- (b) The Publisher Content on the Publisher Properties is legal to distribute, the Publisher owns or has the legal right to use and license the Publisher Properties and the Publisher Content, and the Publisher Properties and the Publisher Content will not infringe any third-party Intellectual Property Rights;
- (c) The Publisher Properties do not, and will not during the term of this Agreement, contain any Prohibited Content as set out in Section 12.2 below;
- (d) The Publisher Properties are free of any "worm", "virus" or other device that could impair or injure any person or entity;
- (e) The Publisher will comply with all applicable laws and regulations in relation to the performance of this Agreement;
- (f) The Publisher has full legal power and authority under its organizational documents to enter into this Agreement and to perform the obligations contained herein, and the execution of this Agreement and the performance of Publisher's obligations by Publisher will not conflict with or cause a breach or violation of any agreement, law, regulation or other obligation to which Publisher is a party or subject;
- (g) The Publisher shall provide to Snack Media such technical information to assist in the design, implementation and selling of Advertising and the provision of the Services as requested by Snack Media within twenty-four (24) hours of Snack Media's request;
- (h) The Publisher shall provide to Snack Media HTML codes, as requested, that provide click-through access to the Advertising from the Publisher Properties and all other reasonably relevant information as requested by Snack Media for the proper performance of the Services within twenty-four (24) hours of Snack Media's request;
- (i) The Publisher shall not manipulate the use of Publisher Properties by generating unjustified traffic or clicks through technical or other unjustified, unnatural or unsustainable means, including but not limited to (i) auto-bookmarking, auto-refreshing, auto-focusing, or changing a user's homepage; (ii) serving any "404" impressions or serving impressions through pop-ups or pop-unders; (iii) serving any impressions sent through fake video players or using i-frames; (iv) requiring users to view advertisements prior to using the Publisher Properties; or (v) providing incentives to view or click through the advertisements. Publisher shall at any time upon written request give Snack Media access within seven (7) days to the log files and any other relevant files or data of a Publisher Property to verify compliance with this Section 3.2(i);
- (j) At the Publisher's own expense, the Publisher shall procure, maintain and operate all hardware, software, networks, systems and third-party services (e.g. internet access) necessary to (i) operate the Publisher



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Properties; (ii) use the Network Tags; (iii) display the Advertising; (iv) access and use the Snack Media Network services; and (v) not obstruct Snack Media from performing the Services;

- (k) The Publisher shall enable Snack Media to access its live traffic statistics from Google Analytics (or any other traffic measurement system that Snack Media agrees to in writing) or otherwise provide any reasonable traffic statistics information in a low maintenance and reliable manner;
- (l) The Network Tags and Advertising are live on all of the Publisher Properties' ad placement positions at all times and shall not be removed or displaced;
- (m) Within fourteen (14) days of the Effective Date, the Publisher shall provide Snack Media with full details of all available inventory on the Publisher Properties;
- (n) The Publisher shall provide Snack Media promptly and accurately with any reasonable information Snack Media may request;
- (o) The Publisher shall incorporate promptly and accurately any demographics tools into the Publisher Properties as may reasonably be required by Snack Media to maximise the Incoming Revenue (including without limitation Comscore and Quantcast), and the Publisher hereby agrees to provide any and all consents relating to information and ranking tools or similar that Snack Media may require to maximise the Incoming Revenue;
- (p) If the Publisher is responsible for the implementation of Network Tags, it must have the Network Tags live within fourteen (14) days of the Effective Date; and
- (q) The Publisher shall reasonably consider using the Fan Engagement Tools.

3.3 No Liability. The Publisher hereby acknowledges that Snack Media shall not be liable for any and all losses incurred as a result of any breach by the Publisher of any of the warranties listed in Section 3.2, or any breach of its obligations under this Agreement.

4. SNACK MEDIA OBLIGATIONS AND WARRANTIES

4.1 Snack Media Obligations. During the Term and subject to Section 3, Snack Media shall:

- (a) Use commercially reasonable efforts to generate Revenue by selling Advertising, licensing out Publisher Content and undertaking other commercial revenue generating activity for the Publisher at prices to be agreed from time to time between Snack Media and the Advertisers or third-parties (as appropriate);
- (b) Collect the Incoming Revenue from the Advertisers and third-party licensees (which may include consumers) and account to the Publisher for the Net Balance in accordance with the terms of this Agreement;
- (c) Procure the delivery of Advertising via Snack Media's ad-serving platform;
- (d) Provide the Publisher with access to the Fan Engagement Tools; and
- (e) Provide the Publisher with a monthly report showing Incoming Revenue.

4.2 Warranties. Snack Media warrants that:



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- (a) It will comply with all applicable laws and regulations in relation to the performance of this Agreement; and
- (b) It has full legal power and authority under its organizational documents to enter into this Agreement and to perform the obligations contained herein; and the execution of this Agreement and the performance of Snack Media's obligations by Snack Media will not conflict with or cause a breach or violation of any agreement, law, regulation or other obligation to which Snack Media is a party or subject.

5. REVENUE, COMMISSION AND PAYMENTS

- 5.1 Incoming Revenue. Snack Media shall be responsible for monitoring Publisher Property statistics and calculating the Incoming Revenue; however, Publisher acknowledges that such responsibility shall be limited to the extent that such statistics shall be provided by the Publisher.
- 5.2 Publisher Content. Snack Media may license Publisher Content to Advertisers and/or third-parties on behalf of the Publisher at its discretion, and Incoming Revenue received in connection with such licensing shall be included when calculating the Commission, as further defined in Section 5.3.
- 5.3 Commission and Approved Costs. The percentage of the Net Revenue or Net Advertising Revenue (as applicable) payable as the Commission shall be stipulated on the Cover Sheet. Upon receipt of the Incoming Revenue, Snack Media shall deduct from it any Approved Costs, then calculate the Commission, and finally remit the Net Balance to the Publisher.
- 5.4 Payment of Net Balance to Publisher. Snack Media shall make payment to the Publisher of the Net Balance within thirty (30) days of the last day of the calendar month in which Snack Media receives payment in full of the Incoming Revenue from the Advertiser and/or third-party licensees. Snack Media does not guarantee payment by Advertisers or third-party licensees and shall not be liable to the Publisher in respect of non-payment or late payment by Advertisers or third-party licensees. Snack Media shall use commercially reasonable efforts to procure payment of the Incoming Revenue.
- 5.5 Advertiser Payment Default. Where an Advertiser or third-party licensee fails to pay the Incoming Revenue within thirty (30) days of the due date for payment set forth on an invoice issued by Snack Media, Snack Media may at its sole discretion (but shall not be obligated to) take such steps as it deems appropriate to recover such Incoming Revenue, including without limitation sending pre-action letters, serving statutory demands and commencing debt recovery proceedings.
- 5.6 Assignment of Debt. If, at ninety (90) days following the due date for payment set forth on an invoice issued by Snack Media to an Advertiser and/or a third-party licensee, the Advertiser and/or third-party licensee has failed to pay sums sought by Snack Media, the parties hereby acknowledge that it may be appropriate to, and Snack Media may, assign such debt to the Publisher in order for the Publisher to pursue the Advertiser or third-party licensee directly. In the event Snack Media assigns a debt to the Publisher, the consideration for such assignment shall be the Commission, which the Publisher shall pay in full on the date of such assignment unless agreed otherwise in writing.
- 5.7 Late Payment. If either party fails to make any payment due to the other party under this Agreement by the due date for payment then, without limiting either party's remedies under Section 14, the paying party shall pay interest on the overdue amount at the rate of four percent (4%) per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The paying party shall pay the interest together with the overdue amount.



5.8 Fan Engagement Tools. Snack Media may provide certain Fan Engagement Tools to the Publisher. If there is no charge set forth on the Cover Sheet then Snack Media shall provide such Fan Engagement Tools as a free-of-charge, added value Service. Notwithstanding the foregoing, Snack Media unconditionally reserves its right to charge the Publisher a fee to use the Fan Engagement Tools. Snack Media shall provide the Publisher with one (1) month's written notice in the event it decides to charge a fee in accordance with this Section 5.8.

6. LICENSES

6.1 Third-Party Images. If Snack Media provides the Publisher with access to images owned by a third-party (each such party a "Licensor") for use on the Publisher Properties, the use of such images by the Publisher shall be strictly in accordance with Snack Media's instructions and the Licensor's terms and conditions. The Publisher shall immediately remove all such images from the Publisher Properties upon the termination or expiry of this Agreement. The Publisher shall defend, indemnify, and hold harmless Snack Media and each of its affiliates, representatives, directors, officers, employees, consultants, contractors and/or attorneys ("Representatives") against all losses, claims, costs, expenses and damages (including reasonable attorneys' fees) suffered or incurred by Snack Media and/or its Representatives in respect of, or in relation to, the Publisher's use of images provided hereunder in contravention of Snack Media's instructions or the Licensor's terms and conditions, or after the termination or expiry of this Agreement.

7. ADVERTISER SOCIAL MEDIA ACTIVITY

7.1 Advertiser Social Media Activity. An Advertiser may engage Snack Media to produce content for, and operate, Advertiser Social Media Activity for which the Publisher may earn a commission based on fees received by Snack Media from the Advertiser. The rate of any such commission as referred to in this Section 7.1 shall be set out on the Cover Sheet, or may otherwise be agreed between Snack Media and the Publisher in writing.

8. OVER-DELIVERY AND OVER-PAYMENTS

8.1 Over-Delivery by Snack Media. In the event of over-delivery, Snack Media shall incur no liability to the Publisher for any or all such over-delivery on any campaign, regardless of the level of demand experienced by the Publisher at any given time.

8.2 Over-Payments by Snack Media. If Snack Media pays out Revenues to a Publisher in relation to Revenues that are not subsequently received by Snack Media, or makes any other over-payment to a Publisher, then any balance owed to Snack Media will be corrected in the next Publisher statement, set off, and refunded to Snack Media.

8.3 Insufficient Funds. Where there are insufficient funds in a Publisher account to cover any over-payment as detailed in Section 8.2 above (or otherwise), Snack Media reserves the right to invoice the Publisher for the reimbursement of any such over-payment. Any such invoices shall be paid by the Publisher within thirty (30) days of issue.

9. INTELLECTUAL PROPERTY

9.1 Intellectual Property Rights. Save for as expressly granted to the Publisher in this Agreement, Snack Media retains all Intellectual Property Rights of Snack Media, including without limitation all Intellectual Property Rights in and to the Snack Media Network, the technology utilised by Snack Media in connection with the Snack Media Network, the Network Tags and any Advertising, and the Snack Media Marks, which are and shall remain the exclusive property of Snack Media.

9.2 Marks. Each party hereby authorises the other party to disclose the participation of the Publisher in the Snack Media Network, and each party grants to the other party a non-exclusive, revocable, limited, worldwide,



royalty-free license to use, reproduce and display the other party's Marks for the sole purposes of performing its respective obligations under this Agreement and for its own publicity and marketing, subject to any usage guidelines communicated by the other party in writing. Each party expressly acknowledges that it does not acquire by virtue of this Agreement any rights to the Marks owned by the other party, but only a right to use such Marks for the purposes and under the conditions set forth in this Agreement. Each party shall retain exclusive ownership, of all Intellectual Property Rights in its Marks.

10. CONFIDENTIALITY

- 10.1 Confidentiality. Each party and/or its Representatives (the "**Disclosing Party**") may disclose or make available to the other party and/or its Representatives (the "**Receiving Party**") information about its business affairs, financials, its products and services, technical or commercial know-how, specifications, inventions, processes or initiatives, or other similar information, which are of a confidential or privileged nature, or should be reasonably understood to be of a confidential or privileged nature (the "**Confidential Information**"). The Receiving Party shall protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. The Receiving Party shall not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to perform its obligations under this Agreement, or otherwise in any manner to the Disclosing Party's detriment.
- 10.2 The Receiving Party shall only disclose the Confidential Information of the Disclosing Party (i) with the prior written consent of the Disclosing Party; or (ii) to those of its Representatives who need to know it for the purpose of discharging the Receiving Party's obligations under this Agreement, and shall ensure that such Representatives comply with the obligations set out in this Section 10 as though they were a party to this Agreement. The Receiving Party shall remain responsible for any breach of this Section 10 by any of its Representatives. The Receiving Party may also disclose such of the Disclosing Party's Confidential Information as is required to be disclosed by law, any governmental or regulatory authority, or by a court of competent jurisdiction. This Section 10 shall survive termination or expiry of this Agreement.

11. INDEMNITY, DISCLAIMER AND LIMITATION OF LIABILITY

- 11.1 Indemnification. The Publisher agrees to indemnify, defend and hold Snack Media and its Representatives harmless from all liabilities, losses, costs, and expenses (including reasonable attorneys' fees) incurred in connection with any third-party claim, action, or proceeding (each, a "**Third-Party Claim**") arising out of any: (i) infringement of Intellectual Property Rights of a third-party by the Publisher; (ii) violation of applicable laws by the Publisher; (iii) material breach of this Agreement by the Publisher; (iv) operation of the Publisher Properties by the Publisher; or (v) use of the Snack Media Network by the Publisher.
- 11.2 Third-Party Content. Publisher understands and acknowledges that, when using the Snack Media Ad Network and Services, Publisher may be exposed and have access to content from a variety of sources including links to other websites on the internet, content made available on the Snack Media Ad Network by other users, and Advertising content provided by Advertising customers (collectively, "**Third-Party Content**") and that Snack Media does not control and is not responsible for any Third-Party Content. Snack Media assumes no responsibility for the content, privacy policies or practices of Third-Party Content, or the owners and operators of such Third-Party Content. In accordance with Section 11.3 below, Snack Media makes no representation and warranty as to the accuracy, completeness or authenticity of information of the Third-Party Content and shall not be liable for any and all liability arising from the Publisher's use of any Third-Party Content. Snack Media claims no ownership or control over Third-Party Content. Third-parties retain all rights, responsibilities and liabilities to Third-Party Content and they are responsible for protecting their rights as appropriate. Without limiting Sections 11.3 and 11.4, all Third-Party Content provided to the Publisher is "AS-IS" for its use only as contemplated by this Agreement, and the Publisher shall not use, copy, reproduce, distribute, transmit,



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broadcast, display, sell, license or otherwise exploit for any other purpose whatsoever the Third-Party Content without the prior written consent of the respective owners/licensors of the Third-Party Content.

11.3 DISCLAIMER OF WARRANTY. SNACK MEDIA MAKES NO REPRESENTATION OR WARRANTY AS TO THE AMOUNT OF REVENUE OR PROFIT TO BE DERIVED OR PROVIDED UNDER THIS AGREEMENT, OR AS TO THE PERFORMANCE OF THE SNACK MEDIA NETWORK OR THE SERVICES PROVIDED HEREUNDER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SNACK MEDIA HEREBY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, REGARDING THE SNACK MEDIA NETWORK, THE NETWORK TAGS, SNACK MEDIA'S SERVICES, OR THIS AGREEMENT, INCLUDING WITHOUT LIMITATION: (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR MERCHANTABILITY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTIES WHICH MAY ARISE UNDER APPLICABLE LAW, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH UNDER THIS AGREEMENT, THE SNACK MEDIA NETWORK, THE NETWORK TAGS AND ALL OTHER SNACK MEDIA SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS.

11.4 Limitation of Liability. Snack Media's liability under this Agreement shall be excluded to the fullest extent permitted by law. For the avoidance of doubt:

- (a) Snack Media shall not be liable to the Publisher for non-payment or late payment by Advertisers and/or any other third-party;
- (b) The Publisher understands and acknowledges that there is no guarantee of any minimum level of Revenue under this Agreement;
- (c) Snack Media shall not be liable to the Publisher for losses incurred by the Publisher where the Publisher has breached any of its obligations under Section 3;
- (d) Snack Media shall under no circumstances be liable to the Publisher, whether in contract, tort (including negligence, strict liability, product liability, or other theory), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under, or in connection with, this Agreement;
- (e) Snack Media's total liability to the Publisher in respect of all other losses arising under, or in connection with, this Agreement shall in no circumstances exceed the aggregate of the Commission paid during the six (6) months prior to the date on which Snack Media's liability has been agreed between the parties or decided by a court of competent jurisdiction;
- (f) The Publisher understands and acknowledges that the Publisher may be exposed to Third-Party Content that is inaccurate, offensive, indecent or otherwise objectionable or may cause harm to Publisher computer systems and, without limiting the other limitation of liability provisions herein, the Publisher agrees to waive, and hereby does waive, any legal or equitable rights or remedies the Publisher may have against Snack Media with respect thereto; and
- (g) The Publisher understands and acknowledges that Snack Media assumes no responsibility whatsoever for monitoring the Snack Media Ad Network for inappropriate Third-Party Content or conduct. If at any time Snack Media chooses, in its sole discretion, to monitor such Third-Party Content, Snack Media assumes no responsibility for such Third-Party Content, has no obligation to modify or remove any such Third-Party Content, and assumes no responsibility for the conduct of the users submitting any such Third-Party Content.



11.5 Exclusions. The terms implied by Sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by Sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

12. RESTRICTIONS

12.1 Publisher Restrictions. The Publisher shall not:

- (a) Alter, reverse engineer, decompile, disassemble, sell, rent, lease, sublicense, transfer, or otherwise make available the Network Tags or any copies thereof to any third-party, or create derivative works therefrom;
- (b) Copy the Network Tags, except for performance of this Agreement or for backup, archival and disaster recovery purposes;
- (c) Place Network Tags on blank web pages or on web pages with no content, or in a fashion that may be deceptive to the visitor in that it causes the Advertising to appear as editorial content;
- (d) Serve Advertising from any location other than Snack Media's designated server (it being understood that stored images that are loaded from a different location will not count towards any statistic or payment);
- (e) Induce persons to click based on incentives (e.g. rewards programs);
- (f) Use unsolicited email with regards to the Advertising;
- (g) Use auto-spawning browsers, or automatic redirecting of visitors, blind text links, misleading links, forced clicks (i.e. requiring a visitor to click because their browser has been hijacked, or because Advertising has been altered so that it is impossible to close without clicking it); or any other method that may lead to artificially high numbers of delivered clicks or Impressions; or
- (h) Use of any method and/or means that may directly or indirectly, intentionally, accidentally or incidentally, lead to a falsely generated or artificially high number of Impressions or clicks.

12.2 Prohibited Content. The Publisher shall procure that during the Term of this Agreement that none of the Publisher Properties shall contain or promote any Prohibited Content. Snack Media reserves the right to reject or block any Publisher Page or Publisher Property at any time at its sole discretion. At any time, Snack Media may investigate any Publisher Property to determine whether it includes any Prohibited Content or whether it otherwise violates this Agreement. If Snack Media determines that any Publisher Properties include any Prohibited Content, Snack Media may discontinue the Services immediately upon notice for such Publisher Properties. In no event shall Snack Media or any Advertisers be obligated to pay for Advertising delivered through Publisher Properties containing Prohibited Content after Publisher's receipt of such notice from Snack Media.

12.3 Publisher Default. If Snack Media's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission of the Publisher, or a failure by the Publisher to perform any relevant obligation, or a breach by the Publisher of any of the restrictions in Section 12.1 (each a "**Publisher Default**"):

- (a) Snack Media shall, without limiting its other rights or remedies, have the right to suspend performance of the Services until the Publisher remedies the Publisher Default, and to rely on the Publisher Default to relieve it from the performance of any of its obligations to the extent the Publisher Default prevents or delays Snack Media's performance of any of its obligations;



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- (b) Snack Media shall not be liable for any costs or losses sustained or incurred by the Publisher arising directly or indirectly from Snack Media's failure or delay to perform any of its obligations as set out in this Section 12.3; and
- (c) The Publisher shall reimburse Snack Media on written demand for any costs or losses sustained or incurred by Snack Media arising directly or indirectly from the Publisher Default.

13. DATA PROTECTION

13.1 Privacy and Data Protection. Publisher acknowledges that Publisher has reviewed and agreed to Snack Media's Data Processing Addendum, attached hereto as Schedule A of this Agreement. Each party will at all times comply with all federal, state, and local laws, ordinances, regulations, and codes which are applicable to their performance of their respective obligations under this Agreement including, but not limited to, the EU General Data Protection Regulation (EU 2016/679) ("**EU GDPR**"), and the EU GDPR as amended and incorporated into UK law under the UK European Union (Withdrawal) Act 2018 ("**UK GDPR**").

14. TERM AND TERMINATION

14.1 Effective Date. This Agreement shall commence on the Effective Date.

14.2 Term. Unless terminated earlier in accordance with this Section 14.2, this Agreement shall continue for the period stipulated on the Cover Sheet ("**Initial Term**"), and may automatically extend as stipulated on the Cover Sheet ("**Renewal Term**", and collectively with the Initial Term the "**Term**") at the end of the Initial Term and at the end of each Renewal Term.

14.3 Termination. Either party may give written notice to the other party, not less than thirty (30) days before the end of the Initial Term or the relevant Renewal Term, to terminate this Agreement at the end of the Initial Term or the relevant Renewal Term then in progress, as the case may be.

14.4 Early Termination. If the Publisher serves notice to terminate this Agreement earlier than permitted under this Section 14 (which, for greater clarity, is not permitted hereunder), or if the Publisher takes any other action which effectively terminates (or has the effect of substantially terminating) this Agreement earlier than permitted (including without limitation, removing or displacing the Advertising or Network Tags), it shall, in addition to all other rights and remedies available to Snack Media, be liable to Snack Media for the total value of the Commission which Snack Media has a reasonable expectation of earning during the period between the termination date and the end of the Term. The parties acknowledge and agree that the Commission which Snack Media has a "reasonable expectation of earning" for the purposes of this Section shall be calculated as a monthly average based on the average Incoming Revenue generated in the three (3) (or such other period elapsed as of the termination date if less than three (3) months) months prior to receipt of such termination notice, with such average then multiplied by the period remaining in the Term.

14.5 Survival. In the event of termination of this Agreement, the following Sections shall survive: 5, 6, 7, 8, 9, 10, 11, 13, 14 and 15.

15. GENERAL

15.1 Third-Party Rights. Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any third-party under the Contracts (Rights of Third Parties) Act 1999.

15.2 Entire Agreement. These Terms and Conditions and the Cover Sheet constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each



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party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

- 15.3 Variation. Snack Media may change, modify or amend these Terms and Conditions as it may determine in its reasonable discretion. To make such a variation, Snack Media shall notify Publisher not less than five (5) days prior to the effective date of such variation. If the Publisher considers any proposed variation to be unreasonable, it shall notify Snack Media in writing. The Publisher's continued use of the Snack Media Network following the effective date of such variation shall constitute the Publisher's deemed acceptance of the revised Terms and Conditions.
- 15.4 Force Majeure. Neither party shall be in breach of this agreement nor liable for any delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for three (3) months, the party not affected may terminate this agreement by giving fourteen (14) days' written notice to the affected party.
- 15.5 Governing Law and Jurisdiction. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.



SCHEDULE A
DATA PROCESSING ADDENDUM

In the course of Snack Media's provision of services to Publisher under the Agreement (the "**Services**"), Snack Media may process Personal Data on behalf of Publisher, and Snack Media and Publisher agree to comply with this Data Processing Addendum ("**DPA**") to the extent that Data Protection Laws apply with respect to any such Personal Data. This DPA is applicable only to the extent that Data Protection Laws apply to the Processing of Personal Data under the Agreement. Capitalised terms used but not otherwise defined in this DPA shall have the meanings ascribed to them in the Agreement.

1. Definitions

- 1.1. "**Adequate Country**" shall have the same meaning as under the applicable Data Protection Laws.
- 1.2. The terms "**Controller**," "**Data Subject**," "**Process**," "**Processor**," and "**Processing**" shall have the meaning given to them under Data Protection Laws.
- 1.3. "**Data Protection Laws**" means with respect to a party, all applicable data protection laws and regulations applicable to such party's Processing of Personal Data, including, where applicable, the EU GDPR, or the UK GDPR.
- 1.4. "**EU GDPR**" means the EU General Data Protection Regulation (EU 2016/679).
- 1.5. "**EEA**" means the European Economic Area.
- 1.6. "**Personal Data**" means "personal data," "personal information," "personally identifiable information," or similar information as defined in and governed by Data Protection Laws.
- 1.7. "**Security Breach**" shall have the meaning given to it in Section 4.2 of this DPA.
- 1.8. "**UK GDPR**" means the EU GDPR as amended and incorporated into UK law under the UK European Union (Withdrawal) Act 2018, and applicable legislation thereto.

2. Relationship of the Parties; Scope of Processing.

- 2.1. If EU GDPR or UK GDPR is applicable, (a) the parties agree that with respect to the provision of Services, as to the Processing of Personal Data, Publisher is the Controller and Snack Media is the Processor, and (b) in the event of a transfer of Personal Data outside the EEA or the UK to a jurisdiction that is not recognized as an Adequate Country under the applicable Data Protection Laws, the parties shall comply with the Standard Contractual Clauses attached to this DPA as Appendix A. If UK GDPR is applicable, the parties further agree to the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses attached to this DPA as Appendix B.
- 2.2. The subject matter, duration, nature, and purpose of the Processing of Personal Data are set forth in the Agreement and/or this DPA. The types and categories of Data Subjects are: (A) Visitors to Publisher's Properties; (B) Publishers. Snack Media will only Process Personal Data to the extent necessary to provide Publisher with the Services and in accordance with Publisher's written instructions set forth in the Agreement and/or this DPA.
- 2.3. Snack Media shall not (a) retain, use, or disclose Personal Data for any purpose other than providing the Services, as set out in this DPA, or as otherwise permitted by applicable laws, or (b) further collect, sell, or use Personal Data except as necessary for legitimate business purposes, such as: (i) for accounting, tax, billing,



audit, and compliance purposes; (ii) to provide, develop, optimize and maintain the Services; (iii) to investigate fraud, spam, wrongful or unlawful use of the Services; and/or (iv) as required by applicable law.

3. Sub-Processors.

3.1. Publisher hereby authorises and consents to Snack Media's use and engagement of sub-processors in accordance with this Section 3 and hereby approves Snack Media's use of the sub-processors listed in Appendix C ("**Authorised Sub-Processors**"). Snack Media shall update the Authorised Sub-Processors list at least thirty (30) days before appointing a new Authorised Sub-Processor and will provide Publisher notice of any new Authorised Sub-Processors.

4. Security; Confidentiality; Audit.

4.1. Snack Media shall ensure that any person who is authorised by Snack Media to Process the Personal Data shall be bound by a contractual or statutory obligation of confidentiality. Snack Media will ensure that there are appropriate physical, technical, and organisational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, or access, and will at a minimum, have: (a) heavily restricted access to underlying user data; (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services by performing security upgrades and maintenance updates to hosting infrastructure; (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident (with on-site and off-site backups of hosting and cloud compliant processors; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing with reviews of disaster recovery plans done yearly.

4.2. Snack Media shall: (a) promptly notify Publisher in the event of any actual or suspected security breach, unauthorised access, misappropriation, loss, damage, or other compromise of the security, confidentiality, or integrity of Personal Data Processed by Snack Media or by an Authorised Sub-Processor ("**Security Breach**"); and (b) take reasonable steps to mitigate the Security Breach and harm to individuals and provide reasonable and prompt cooperation relating to the Security Breach as requested by Publisher.

4.3. Snack Media will allow reasonable access to its data processing facilities for audits and inspections of the Processing activities covered by this DPA, which may be carried out by Publisher or any independent or impartial inspection agents or auditors selected by Publisher and bound by a duty of confidentiality and not reasonably objected to by Snack Media (an "**Audit**"). Such Audit shall not occur more than once per twelve (12) month period, and Publisher shall not carry out any Audit after the termination or expiration of the Agreement.

5. Return or Deletion of Data.

5.1. Snack Media will, upon Publisher's written request and within a reasonable delay, delete or return to Publisher, all Personal Data after the termination or expiration of the Agreement and delete existing copies except to the extent applicable law requires the Personal Data to be retained. Further, Snack Media shall protect any Personal Data that Snack Media has archived on back-up systems from further Processing.

6. Data Subject or Regulator Requests.

6.1. Snack Media will provide Publisher with reasonable cooperation and assistance in relation to any complaint, communication, or request received from a Data Subject or regulator.

7. Transfers Outside the EEA.



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7.1. In the event where Personal Data is transferred out of the EEA or the UK to a jurisdiction that is not recognized as an Adequate Country under the applicable Data Protection Laws and where the Data Protection Laws apply to transfers of Personal Data, both parties shall agree that such transfers are governed by the following:

7.1.1. *EEA data subjects*: The standard contractual clauses in Commission Decision 2021/914/EU, Module Four, as can be found at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021D0914&from=EN> (the “**EU SCC**”). Clause 7 (Docking Clause), but not the option under Clause 11 (independent dispute resolution), shall apply. The blank space of Clause 17 shall be replaced by “England”; and

7.1.2. *UK data subjects*: In addition to the EU SCC, the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as can be found at <https://ico.org.uk/media/for-organisations/documents/4019539/international-data-transfer-addendum.pdf> (or as it may be amended or replaced) (the “**UK Addendum**”) shall apply.

7.2. Both the EU SCC and the UK Addendum, if applicable, shall be incorporated by reference into this DPA, forming an integral part thereof.

8. Miscellaneous.

8.1. In the event of an inconsistency between the provisions of this DPA and the Agreement, the provisions of this DPA shall prevail to the extent of the inconsistency.

8.2. This DPA shall be governed by, and construed in accordance with, the choice of law and venue provisions in the Agreement, unless otherwise required by applicable Data Protection Laws.

8.3. If any provision or condition of this DPA shall be held or declared invalid, unlawful, or unenforceable by a competent authority or court, then the remainder of this DPA shall remain valid.



APPENDIX A

ANNEX I

A. LIST OF PARTIES

1. Data exporter(s): *Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union*

Name:

Address:

Contact person's name, position and contact details:

Activities relevant to the data transferred under these Clauses:

Signature and date:

Role (controller/processor):

2. Data importer(s): *Identity and contact details of the data importer(s), including any contact person with responsibility for data protection*

NAME:

Address:

Contact person's name, position and contact details:

Activities relevant to the data transferred under these Clauses

Signature and date:

Role (controller/processor):

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred:

Categories of personal data transferred:

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures:

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis):

Nature of the processing:

Purpose(s) of the data transfer and further processing:

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period:

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing:

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13:



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ANNEX II

TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons:

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter:

APPENDIX B

International Data Transfer Addendum to the EU Commission Standard Contractual Clauses

VERSION B1.0, in force 21 March 2022

Part 1: Table

Table 1: Parties

Start date		
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name: Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):	Full legal name: Trading name (if different): Main address (if a company registered address): Official registration number (if any) (company number or similar identifier):
Key Contact	Full Name (optional): Job Title: Contact details including email:	Full Name (optional): Job Title: Contact details including email:
Signature (if required for the purposes of Section 2)		

Table 2: Selected SCCs, Modules and Selected Clauses

Addendum EU SCCs		the Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum:				
Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?
4	X	Yes	No			

Table 3: Appendix Information

“**Appendix Information**” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties:
Annex 1B: Description of Transfer:
Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data:
Annex III: List of Sub-processors (Modules 2 and 3 only):

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	Which Parties may end this Addendum as set out in Section 19: <input checked="" type="checkbox"/> Importer <input checked="" type="checkbox"/> Exporter <input type="checkbox"/> neither Party
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Part 2: Mandatory Clauses

Mandatory Clauses	Part 2: Mandatory Clauses of the Approved Addendum, being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18 of those Mandatory Clauses.
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APPENDIX C
LIST OF SUB-PROCESSORS

The Controller has authorised the use of the following sub-processors:

1. Name: My Czech Hosting (cesky-hosting) registered company: THINline s.r.o. ID number: 26747359 VAT number: CZ26747359

Address: Jeseniova 1196/52, Žižkov, 130 00 Prague 3. The company is registered in the OR at the Municipal Court in Prague under sp. C 91182

Contact person's name, position and contact details: Administrator, podpora@cesky-hosting.cz, info@thinline.cz

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Hosting provider

Providing hosting infrastructure (physical servers, VMs, backup servers) used by Snack Media to provide hosting services to publishers. Website visitors access information would be logged (IP, web request), along with any information stored in databases by Snack Media and/or its clients using the services.

Info on GDPR <https://www.cesky-hosting.cz/gdpr/>

2. Name: FreshDesk owned by Freshworks Technologies UK Limited (company no: 09338697)

Address: London, UK, 3rd Floor, Johnson Building, 77 Hatton Garden, London EC1N 8JS, +44 8081 698 824

Contact person's name, position and contact details: Data Protection Officer, dpo@freshworks.com

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Support desk ticketing service

Capturing emails from publishers along with information provided via bespoke contact forms. Processing and information provided within the emails and forms to allow Snack Media to provide a support service to publishers. Data centres held in the US.

Privacy policy: <https://www.freshworks.com/privacy/>

Information on security of data: <https://www.freshworks.com/security/>

Information on GDPR compliance: <https://www.freshworks.com/gdpr/>

List of sub-processors used by FreshDesk: <https://www.freshworks.com/privacy/sub-processor/>

3. Name: Google Services - Ad manager

Address: 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA (650) 253-0000

Contact person's name, position and contact details:

https://support.google.com/policies/contact/general_privacy_form

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Advertising services

Storing, processing and passing user consented data, including some personally identifiable information, provided by website visitors to additional sub-processors and vendors for the purpose of providing advertising services.



<https://policies.google.com/privacy>

<https://cloud.google.com/privacy/gdpr>

<https://business.safety.google/compliance/>

4. Name: Google Services - Google Workspace (Gmail, Drive, Sheets, Docs, Forms)

Address: 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA (650) 253-0000

Contact person's name, position and contact details:

https://support.google.com/policies/contact/general_privacy_form

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Email services and file storage

Storing, processing and passing on user consented data, including some personally identifiable information, provided by website visitors to additional sub-processors and vendors for the purpose of providing advertising services. Additionally storing contractual information on publishers.

<https://policies.google.com/privacy>

<https://cloud.google.com/privacy/gdpr>

<https://business.safety.google/compliance/>

Sub-processors:

https://workspace.google.com/intl/en/terms/subprocessors.html?utm_medium=et&utm_source=google.com%2Fcloud&utm_campaign=gdpr&utm_content=commitments_to_the_gdpr&ga=2.44114212.1829542452.1518948405-1172296852.1493242673

5. Name: Hubspot

Address: HubSpot, Inc., Two Canal Park, Cambridge, MA 02141 USA, Attn: Privacy and Data Protection Officer.

Contact person's name, position and contact details: Data Protection Officer.

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Email service and marketing

Capturing emails from publishers along with information provided via bespoke contact forms. Processing and information provided within the emails and forms to allow Snack Media to provide a support service to publishers and update them.

Sub-processors:

https://742851.fs1.hubspotusercontent-na1.net/hubfs/742851/HubSpot_DPA_3Jan2024_SubP_SCC_UK.pdf

<https://legal.hubspot.com/dpa>

6. Name: Amazon Web services, Publisher Centre

Address: Amazon Web Services EMEA SARL, 38 Avenue John F. Kennedy, L-1855, Luxembourg

Contact person's name, position and contact details: Data Protection Officer, aws-EU-privacy@amazon.com

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Hosting and Advertising



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Advertising Services.

Processing and passing user consented data, some personally identifiable information, provided by website visitors to additional sub-processors and vendors for the purpose of providing advertising services.

<https://aws.amazon.com/compliance/gdpr-center/>

<https://aws.amazon.com/compliance/sub-processors/>

7. Name: smtp2go.com

Address: SMTP2GO (Sand Dune Mail Ltd), 96-106 Manchester Street, Christchurch 8011, New Zealand

Contact person's name, position and contact details: ticket@smtp2go.com

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Server-side email messaging service

Sending emails on behalf of hosted publishers' websites using SMTP. For instance, forum messages and email settings users consent and subscribe to.

<https://www.smtp2go.com/privacy/>

8. Name: LiveRamp Inc.

Address: 225 Bush Street, 17th floor, San Francisco, CA, 94104, USA

Contact person's name, position and contact details: ukprivacy@liveramp.com

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): Building a connected customer view with unmatched clarity and context while protecting brand and consumer trust using hashed email data.

<https://liveramp.uk/privacy/service-privacy-policy/>