

Terms and Conditions

Terms and Conditions

These Terms are entered into between Performance Horizon Group Limited (Company Number 07188234), ("PHG") and you ("Publisher"). By ticking the box below, Publisher agrees and undertakes:

- that it has the capacity and authority to enter into these Terms and bind the company or organisation it represents to them; and

- that the company or organisation Publisher represents agrees to be bound by these Terms, as well as the Advertiser's Program Terms and Conditions.

1. Publisher Sign-Up

1.1 Publisher's application to become a Publisher on the relevant Advertiser Network may be approved in Advertiser's sole discretion ("Approved").

1.2 If Approved, Publisher will have access to a Publisher Management Area.

1.3 If Publisher wishes to participate in a Programme, Publisher may apply to PHG by supplying the requested information and following such other instructions as are stated in the Publisher Management Area.

1.4 Publisher's participation in a Programme is at the discretion of the Advertiser who operates the Programme.

1.5 If Advertiser approves Publisher's participation, Publisher further agrees to be bound by any specific conditions which Advertiser may impose from time to time.

2. User and Order Tracking

2.1 PHG shall create Links and supply these to Publisher, which allow PHG and PHG's partners (including Advertisers) to track Users referred by Publisher, and in respect of which Programme.

2.2 Publisher must implement the Links in Publisher's Site in accordance with PHG's instructions, maintain them at all times as fully operational, and ensure they are updated in accordance with PHG's instructions.

2.3 Publisher expressly acknowledges and agrees that Publisher's delay in, or failure to, implement, operate and maintain Links correctly may cause Referrals not to be identified, and no Commission shall be payable to Publisher in respect of such unidentifiable Referrals.

3. IP Licences, Branding and Ownership

3.1 Each Party grants the other a non-exclusive, revocable, sub-licensable, royalty-free licence, to use, reproduce and display its respective Intellectual Property for the purposes of providing the Service and operating the Programmes in which Publisher participates.

3.2 Nothing in these Terms shall operate to transfer any interest or ownership in the Intellectual Property Rights of one Party to the other.

4. Commission

4.1 Commission is due in respect of Referrals that result in Approved Transactions.

4.2 An "Approved Transaction" is the sale of goods or supply of services, or sign-up or other User-initiated action as specified in a Programme Description which has been confirmed by Advertiser as approved.

5. Payment

5.1 Payment for Commissions is dependent upon Advertisers providing such funds to PHG and therefore, Publisher agrees that PHG shall only be liable to Publisher for Commissions to the extent that PHG has received such funds from the Advertisers. Publisher hereby releases PHG from any claim for Commissions if PHG has not received such funds from the Advertisers.

5.2 Commissions shall only be due for payment to Publisher once Publisher has earned Commissions above the minimum payment threshold of £20/\$30/€30 per month. A payment matrix of minimum threshold amounts is available on request for all other currencies. For the avoidance of doubt, Commissions earned below the threshold in any month shall be transferred to the following month.

5.3 Publisher expressly acknowledges and agrees that if Publisher does not clear their funds or provide sufficient information for PHG to electronically transfer funds to Publisher within 18 months of the date on which Publisher invoice can be generated in Publisher's Management Area, PHG shall be entitled to

retain such unclaimed Commission for PHG's own account, and Publisher shall forfeit any claim in respect of it.

5.4 PHG reserves the right to claim back un-cleared funds if transactions later turn out to be as a result of Unethical Activities.

5.5 PHG reserves the right to withhold payment to Publishers with any of the following in a country which is subject to international sanctions in compliance with any law, regulation or government direction affecting PHG or an Associated Company:

- (i) billing address;
- (ii) bank account;
- (iii) IP address; or
- (iv) trading address.

5.6 PHG has the authority of HMRC to raise VAT invoices on Publisher's behalf. Publisher is required to keep PHG updated with information relating to Publisher's VAT status (including but not limited to VAT registration status, VAT number (if applicable), address and organisation name), and to ensure the payment details in Publisher's Management Area are correct.

5.7 Publisher therefore agrees:

5.7.1 not to issue VAT invoices to PHG for Commissions earned, and

5.7.2 PHG shall raise self-billing VAT invoices on Publisher's behalf for the duration of these Terms.

5.8 Where the transfer of funds to Publisher incurs bank charges, PHG reserves the right to pass on such charges to Publisher.

5.9 Where Publisher requests payment in a currency other than the currency the campaign is tracked in, PHG shall charge Publisher for foreign exchange payments at a reasonable market rate.

6. Publisher Warranties

6.1 Publisher represents, warrants and undertakes to PHG that:

- (a) it has the full corporate right, power and authority to enter into these Terms and to perform the acts required under them;
- (b) its acceptance of these Terms, and its performance of its obligations and duties under them, do not and will not breach any agreement to which Publisher is a party or by which it is otherwise bound;
- (c) all information and data Publisher supplies to PHG, Advertiser, Users and any other party through or in connection with these Terms is correct, accurate and not misleading;
- (d) Publisher's Site and Publisher's activities through and in connection with the PHG Services and the relevant Advertiser Network, and any data processing in relation to Users shall comply with any and all applicable laws, regulations and codes of conduct in force from time to time as amended, re-enacted, extended or consolidated;
- (e) it shall adhere to the Publisher Guidelines at all times, as well as industry best practice in promoting the Programme. Promotion that is unacceptable includes but is not limited to, promotion by unsolicited email;
- (f) its Site and its activities through and in connection with the PHG Services and relevant Advertiser Network shall not contain any Malware or other equivalent or similar code or material;
- (g) it shall provide a clear and conspicuous link to its privacy policy from each page on its Site;
- (h) it shall include a statement in its privacy policy that PHG and/or Advertiser (or another third party, where applicable) may use code or cookies on Publisher's website to track the performance of Advertiser's marketing efforts, and that no personally identifiable information is collected in such process;
- (i) any Intellectual Property it uses does not and will not infringe any third-party right (including without limitation by being obscene, defamatory or infringing any copyright, trade mark or other proprietary right).

7. Publisher Indemnity

7.1 Publisher hereby undertakes to keep PHG, PHG's Associated Companies and PHG's Advertisers (together with their directors, employees and agents) fully and effectively indemnified against any and all costs, claims, expenses and liabilities (including reasonable legal fees) arising from a result of:

- (a) the content of Publisher's Site;
- (b) any breach of these Terms;
- (c) any contaminated file, virus, worm or trojan horse originating from Publisher's Site; and
- (d) any other claim against PHG or Advertiser in connection with a User's use of Publisher's Site

(any matter within the scope of this indemnity being a "Claim").

7.2 PHG shall notify Publisher of any Claim and take reasonable account of Publisher's directions with regard to that Claim.

7.3 Clause 11 of these Terms shall not apply to this clause 7.

8 PHG Warranties

8.1 PHG represents, warrants and undertakes to Publisher that:

(a) it has the full corporate right, power and authority to enter into these Terms and to perform the acts required of it under them;

(b) its execution of these Terms and the performance of its obligations and duties under them, do not and will not breach any agreement to which it is a party or by which it is otherwise bound; and

(c) Publisher's use of PHG's Intellectual Property shall not infringe the intellectual property or other rights of any third party.

9 Limited Warranty

9.1 Publisher acknowledges and agrees that the Services are provided on an 'as is' basis, and that PHG does not make any warranty in relation to Service availability or uptime, nor that the Service is suitable for Publisher's particular requirements, or will result in any particular level of income or business to Publisher.

10 Term, Termination and Suspension

10.1 These Terms commence on the Effective Date and shall remain in force until terminated in accordance with its provisions.

10.2 Either Party may terminate these Terms at any time on written notice to the other Party in the event of:

(a) a material breach of these Terms by the other Party; or

(b) the other Party passing a resolution, or a court of competent jurisdiction making an order, that the other Party be wound up, a receiver, administrative receiver, administrator or manager is appointed over any part of the business or assets of the other Party; the other Party is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any similar event occurs in any other jurisdiction in respect of the other Party.

10.3 Further, PHG may terminate these Terms:

(a) immediately and without notice if Publisher engages in Unethical Activities or breaches clause 6 or 13 of these Terms; and

(b) on immediate notice without cause.

10.4 Publisher may terminate these Terms on immediate notice without cause.

10.5 PHG may suspend its provision of Services or Publisher's participation in any Programme, or disable Links, where PHG believes it is necessary to avoid damage, loss or liability to PHG, PHG's Associated Companies or Advertisers, including, without limitation, if PHG believes Publisher is engaged in any Unethical Activities.

10.6 If PHG exercises its rights of suspension under clause 10.5, it shall notify Publisher as soon as practicable and resume provision of Services and/or the Programme as soon as it is satisfied the reason for suspension no longer applies.

10.7 Except for PHG's obligations in clause 13, PHG shall be relieved of all liability, duty and obligation to Publisher (including, without limitation, any payment obligation) during the period of such suspension. For avoidance of doubt, Publisher shall not be entitled to any Commission, compensation or any other form of payment in respect of any period of suspension, whether or not the suspension is lifted and Publisher is subsequently re-granted access to the PHG Network.

11 Limitation of Liability

11.1 Nothing in these Terms shall limit or exclude the liability of either Party for loss or damage due to or arising from death, personal injury or fraudulent misrepresentation.

11.2 Save in relation to clause 7 above, neither Party shall be liable to the other for loss of profits, or indirect, incidental or consequential damages, even if such Party has been advised of the possibility of such damages, incurred as a result of or in connection with these Terms, whether arising out of breach of contract, negligence or howsoever.

11.3 PHG's maximum liability to Publisher in relation to Publisher's direct losses arising from PHG's breach of any provision of these Terms shall not exceed the Commission received or due to Publisher in the 3 months prior to the event which gave rise to liability.

12 Disputes and Notices

12.1 Both Parties shall use all reasonable endeavours to resolve bona fide disputes.

12.2 If no such resolution occurs within 30 days of commencement, either Party may escalate such dispute to a superior within PHG, with both parties agreeing to attempt to resolve such dispute within a further 30 day period.

12.3 Any notice given under these Terms shall be in writing and shall be considered given or made: where sent by hand or courier, upon receipt; where sent by first class pre-paid post, on the second working day following the date of posting; or where given by fax (subject to retention by the sending Party of confirmation of successful transmission), four hours after the time of successful transmission; or where given by e-mail immediately on transmission; or where posted on the PHG website immediately the posting is made.

12.4 Notices shall be delivered or posted to the addresses of the Parties given above or to any other address notified in substitution.

13 Confidentiality

13.1 Both Parties shall take reasonable steps during the Term, and for two years thereafter, to prevent disclosure of Confidential Information of the other Party other than to its employees or agents who must have access to such Confidential Information to perform such Party's obligations hereunder and who have each agreed to comply with this provision.

13.2 Notwithstanding the foregoing, either Party may disclose Confidential Information without the consent of the other Party to the extent such disclosure is required by law. Both Parties may publicise the relationship, subject to the other Party's approval of any publicity materials, such approval not to be unreasonably withheld or delayed.

13.3 Notwithstanding Clause 13.1, where Publisher:

a) has made an application for approval on an Advertiser network; or

b) is participating in an Advertiser programme;

Publisher acknowledges that PHG may disclose any Confidential Information to the relevant Advertiser that PHG reasonably deems necessary for the abovementioned purposes.

14 Force Majeure

14.1 Neither Party shall be liable for, or be considered in breach of these Terms on account of any delay or failure to perform as required by these Terms as a result of any causes or conditions which are beyond such Party's reasonable control, including but not limited to acts of God, acts of government, strikes or war, and which such Party is unable to overcome by the exercise of reasonable diligence.

15 General Provisions

15.1 Failure of either Party to insist upon or enforce strict performance by the other Party of any provision of these Terms or to exercise any right under these Terms shall not be construed as a waiver of such Party's right to assert or rely upon any such provision or right in that or any other instance.

15.2 These Terms comprise the entire agreement between the Parties, and supersede all prior agreements, statements, and representations whether negligent or otherwise (other than fraudulent misrepresentations) by either Party in relation to its subject matter.

15.3 Other than expressly provided for in these Terms, a person (natural or legal) who is not a Party to these Terms has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms, but that does not affect any right or remedy of a third party which exists or is available apart from that Act.

15.4 Publisher shall not assign these Terms or any right, interest or obligation under them without PHG's prior written consent. PHG may assign these Terms or any of its rights, interests or obligations under them to any third party including without limitation any Associated Company without restriction or to any successor of PHG's by way of merger, consolidation or the acquisition of all or substantially all of PHG's business and assets relating to these Terms.

15.5 Solely to the extent there is any inconsistency between the Programme Description and these Terms, these Terms shall prevail.

15.6 If any provision of these Terms is or becomes invalid or illegal in any respect, that provision shall be deemed severed from these Terms but the validity, legality and enforceability of the remaining provisions shall not be affected.

15.7 The clause headings in these Terms are included for convenience only and shall not affect their construction.

15.8 Neither Party shall have the right to bind the other to any agreement with a third party nor to represent itself as an agent, partner or joint venture of the other, nor to incur any obligation or liability on behalf of the other.

15.9 The expiry or termination of these Terms (for whatever reason) shall not terminate any provision or obligation which is expressly or by implication provided to come into or continue in force after such termination and shall be without prejudice to the accrued rights and liabilities and other remedies of the Parties.

15.10 These Terms shall be governed by English law and the Parties irrevocably submit to the exclusive jurisdiction of the English Courts.

16 Updates

16.1 PHG may update these Terms from time to time by publishing a new version on the PHG website.

16.2 PHG will notify Publisher of updates of these Terms via email, the Publisher Management Area or other suitable method.

16.3 Publisher's continued use of the Services and/or participation in a Programme after the date of any such update constitutes Publisher's acceptance to be bound by the updated terms.

16.4 If Publisher does not agree with any proposed update to these terms, Publisher must notify PHG and, in accordance with PHG's direction:

- (a) cease further participation in any then-active Programmes;
- (b) agree to continue any then-active Programmes in accordance with PHG's reasonable directions.

17. Definitions.

In these Terms, the following words have the following meanings:

"Advertiser" means a third party whose goods or services Publisher promotes to Users as part of a Programme which may include agencies responsible for multiple Advertiser Programmes;

"Advertiser Network" means the proprietary network through which Publisher may advertise and market the Advertiser's products and services to Users via Publisher's Site;

"Approved Transaction" means a Transaction that has been approved in accordance with the process set out in clause 4;

"Associated Company" means a member of PHG's group, and any entity that controls, is controlled by or is under common control with any of the foregoing entities;

"Commission" means the fee due to Publisher in respect of Approved Transactions;

"Confidential Information" means these Terms and all communications and information, whether written, visual, or oral, and all other material supplied to or obtained, whether electronic or not, by either Party from the other during the Term and all information, reports, drawings, recommendations, data or advice given by either Party to the other in pursuance of its obligations under these Terms, and shall (without limitation of the foregoing) include any information from whatever source supplied to or obtained by either Party concerning the trade secrets, customers, business associations, technical or commercial affairs of the other Party or in the case of PHG any Associated Company, partners, joint ventures or any Advertiser or business associate of PHG;

"Effective Date" means the date of execution of these Terms (or the later of different dates), as evidenced by the records indicating the date the Publisher signed up to the network;

"Intellectual Property Rights" means patents, rights in designs, trade marks, trading business or domain names, email addresses, copyrights (including any such rights in typographical arrangements, web sites or software), whether registered or not and any applications to register or rights to apply for registration of any of the foregoing rights in inventions, know how, trade secrets and other Confidential Information, rights in databases and all other intellectual property rights of a similar or corresponding character, which subsist now or in the future in any part of the world;

"Link" means the link PHG supplies to Publisher for inclusion on Publisher's Site, which when clicked on by a User, identifies:

1. that the User has been referred by Publisher; and
2. the Programme in which the User is participating;

"Malware" means software programmes designed to damage or do other unwanted actions on a computer system;

"Parties" shall mean the Publisher and PHG, and "Party" shall mean either one of them;

"Programme" means a commercial offer or set of offers of Advertiser's products and services specified in a Programme Description;

"Programme Description" means the key parameters of a Programme, which may include, without limitation, a description of the Advertiser's company, commission rates, cookie period, specific Publisher terms and conditions and other similar information;

"Publisher Guidelines" means the guidelines attached to these Terms in Schedule 1;

"Publisher Management Area" means the PHG reporting interface accessible from URL www.performancehorizon.com (or any other URL as advised by PHG from time to time);

"Referrals" means the Publisher's referral or introduction of a User to an Advertiser as part of a Programme, which may result in an Approved Transaction.

"Services" means the provision of the PHG technology and operation of the Programmes;

"Site" means Publisher's site, blog, forum, voucher code, email list or other mechanic designed or intended to refer Users to Advertisers;

"Term" means the duration of these Terms, beginning on the Effective Date and continuing until the date of termination by either Party, or expiration;

"Terms" means these terms and conditions, as updated from time to time;

"Transaction" means the sale or supply of any Advertiser's goods or services to Users, or introductions, referrals or other User interactions in respect of Advertiser's goods or services as defined in the applicable Programme;

"Unethical Activities" has the meaning ascribed to it in Schedule 1, Paragraph 1;

"User" means an individual consumer who purchases, applies for, enquires about or otherwise takes action in respect of Advertiser's products and services.

SCHEDULE 1

Publisher Guidelines

1. Each Publisher undertakes to PHG that it shall not engage in any fraudulent, unethical or unlawful activity, or any activity which is not transparent to, nor in the best interests of, PHG, Advertisers and Users ("Unethical Activities"). Examples of Unethical Activities include, but are not limited to:

1.1. use of inappropriate software (whether third party or otherwise) in order to create financial gain for Publisher;

1.2. bidding on disallowed key terms within paid search, or any other third party advertising system based on keywords, without PHG's and/or Advertiser's prior approval;

1.3. implementing links, where there is an incentive to click on them without a User's full knowledge of the consequences of their actions - for example, activating a cookie which may later mean a conversion of sale to the owner of the Publisher link ('forced clicks');

1.4. mimicking the action of an Publisher link click which results in a cookie being stored on a User's machine which could later lead to the conversion of a sale to said Publisher.

2. The provisions of this paragraph apply to Publishers whose Site comprises an email list ("Email Publishers"). PHG shall indicate whether each Email Publisher must:

2.1. obtain PHG's approval before sending email promotions on behalf of Advertisers to Users;

2.2. promptly supply examples of email promotions which Email Publisher proposes to use;

2.3. promptly provide full disclosure as to the origin and source of its list or database of email addresses, including supplying satisfactory evidence that these have been properly purchased or licensed; details of the party from whom they have been purchased or licensed; and details which demonstrate that they have been created, supplied and operated in accordance with data protection and other applicable laws.

3. It is each Publisher's responsibility to protect and maintain the confidentiality of their logins, Links and other data used to manage access to the Publisher Management Area and Programmes, to ensure that a third party may not change Publisher's details without Publisher's knowledge.

4. Each Publisher must specify the URLs it will use to track Transactions as part of the sign up process via the Publisher Management Area ("Authorised URLs"). PHG may ignore transactions entered into via URLs other than Authorised URLs and/or withhold Commission in respect of them. A Publisher may add additional or substitute URLs from time to time via the Publisher Management Area, but such URLs will only become operational once confirmed as such by PHG.

5. From time to time, PHG may request information from Publisher to evidence how and where Publisher is promoting its Site, and Publisher shall supply such information promptly to PHG.
6. If any Publisher or User has configured its system in order to disable any technology for confirming the means of referral, PHG will treat the User as not having been referred by any Publisher.
7. All information in the Publisher's Management Area must be complete and accurate at all times. PHG reserves the right to request proof of Publisher's identity at any time. If Publisher does not provide this within the time period specified by PHG then PHG may terminate these Terms on immediate notice.

Advertiser terms, which form a part of your agreement with PHG:

Program Terms and Conditions

These Program Terms and Conditions, together with PHG's Terms and Conditions (collectively, the "Agreement"), establish the terms of use for Publisher to participate in the Affiliate Program ("Program").

By becoming a participant of the Program on the PHG network, Publisher also agrees to adhere to the following Program Terms and Conditions.

Apple Inc. or its applicable affiliated entity (collectively, "Apple") shall be a third-party beneficiary to the Agreement.

PARTICIPATION IN THE PROGRAM

After Publisher reads and agrees to the Agreement, Publisher's registration form and applicable website, application, and/or service (each, an "Publisher Property") will be evaluated, and Publisher will be notified if the Publisher Property is accepted for participation in the Program. If Publisher is accepted to participate in the Program and the Publisher Property is thereafter determined (in Apple's sole discretion) to be unsuitable, Publisher's participation in the Program may be terminated with immediate effect. The Agreement governs participation in the Program only.

Unsuitable Publisher Properties include, but are not limited to, those that:

- Infringe trademark rights of Apple or any third party or otherwise violate the rights of any third party
- Contain sexually explicit materials
- Contain hate/violent/offensive content
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, language, political opinion, philosophical belief, or age
- Promote illegal activities or otherwise violate any applicable laws, including those targeting "spyware," "adware," or SPAM
- Violate any intellectual property rights, including, without limitation, scraping text or images from Apple's websites or other properties (e.g., iTunes Store, App Store, iBooks Store, or Mac App Store)
- Do not clearly state an online privacy policy to their visitors
- Use misleading or fraudulent means to prompt clicks or drive traffic
- Include an Apple trademark in the domain name
- Otherwise are considered offensive or inappropriate

TERMS AND CONDITIONS

1. Program Terms and Conditions.

1.1. PHG may post on the Publisher Management Area offers to pay Program participants a specified commission in return for certain advertising services leading to a Qualifying Link (as defined below). If such offers have been created via the Publisher Management Area, its terms shall be deemed to be a part of the "Program Terms and Conditions".

1.2. If a Publisher is accepted into the Program, Publisher's participation in the Program shall be tracked by PHG and shall be governed by the Agreement. In the event of any inconsistency between the PHG Terms and Conditions and these Program Terms and Conditions, these Program Terms and Conditions shall govern.

1.3. At any time, PHG or Apple may with or without notice (a) change, suspend or discontinue any aspect of a Publisher's participation in the Program or this Agreement or (b) remove, alter, or modify any logos, trademarks, service marks, trade dress, text links, codes, images, pictures, data feeds, text copy, graphic, or banner ad submitted by PHG or Apple via the Publisher Management Area ("Creative"). Publisher agrees to promptly implement any request to remove, alter or modify any Creative.

1.4 Participation of Publisher in the Program through the Publisher Management Area may be terminated by PHG upon immediate notice for any reason.

2. Use of Promotional Content.

2.1. Publisher may use certain promotional content as may be provided through the Program, including previews of songs and music videos, album art, and app icons ("Promo Content"), for the purposes of promoting the subject of the Promo Content or that subject's inclusion in a related service; provided such Promo Content: (i) is placed only on pages that promote the content on which the Promo Content is based; (ii) is proximate to the appropriate Apple-approved web badge provided through the Program ("Badge") that acts as a link directly to pages within the applicable country-specific store (each, a "Store," and collectively, the "Stores") where consumers can access the promoted content; (iii) includes attribution indicating the Promo Content was "provided courtesy of Apple" if such Promo Content includes song or music video previews; (iv) is streamed only, and not downloaded, saved, cached, or synchronized with video, if such Promo Content includes song or music video previews; (v) is not used for independent entertainment value apart from its promotional purpose; (vi) is not used to promote any other goods or services; and (vii) and Publisher's use of such content complies with all applicable laws, statutes, ordinances or regulations, including, without limitation, language requirements for advertisements, in all countries from which the Publisher Property is accessible. With respect to any country at which Publisher Property is targeted or from which the Publisher Property is accessible (collectively, the "Target Country"), Publisher shall select and use only the Promo Content made available through the Program for such Target Country.

2.2. To the extent that Publisher displays on its Publisher Property promotional content or creative that has not been provided through the Program, including but not limited to such content generated by Publisher or other third party, ("Publisher Creative") (i) that incorporates a Qualifying Link (defined herein) as specified in the Program Terms and Conditions or (ii) advertises Promo Content, such Publisher Creative must be proximate to an appropriate Badge. A "Qualifying Link" is a link directing the Customer from Publisher's Publisher Property to a Store using a specially configured URL as specified in the Publisher Management Area or an Apple supported API as provided by Apple for use in the PHG Network.

2.3. Publisher shall forward any claims received in connection with the Promo Content, Creative and/or Publisher Creative to Apple immediately upon receipt, and will remove any such content immediately from its Publisher Property upon request.

3. Use of Advanced Linking Tools. Upon Publisher's request and upon Apple's approval, PHG may provide access to certain tools for Publisher use in connection with links to the Stores, including the Enterprise Partner Feed ("EPF") and the Search API (collectively, the "Advanced Linking Tools"). Subject to the Program Terms and Conditions, PHG grants Publisher a personal, non-exclusive, non-transferable, non-sublicenseable license to use, reproduce, modify, and redistribute the data provided through the EPF solely to create links to the Store(s) in connection with Publisher's participation in the Program. Except as expressly stated in the Program Terms and Conditions, no other rights or license, express or implied, are granted by PHG herein to the EPF or other Advanced Linking Tools.

4. Publisher's Responsibilities.

4.1. Publisher will link its Publisher Property to areas within the Stores using a Qualifying Link. Publisher may post as many Qualifying Links to the Stores as it likes on its Publisher Property, in accordance with the Program Terms and Conditions. Any link used with any of the Qualifying Links by Publisher on its Publisher Property may not include any call to action other than for the purchase of one or more products or services on a Store. For example, a link may not include a call to action for the reading or composing of a product review in a Store. The position, prominence and nature of links on the Publisher Property shall comply with any requirements specified in the Program Terms and Conditions and/or the Publisher Identity Guidelines, as may be updated from time to time, (<http://www.apple.com/itunes/link/>), but otherwise will be at Publisher's discretion. Publisher must ensure that the proper graphics are used with the appropriate URLs, and that the URLs link to the correct area of the applicable Store. Publisher promptly shall remove URL links to the Stores upon PHG's request.

4.2. Publisher may not bid on search terms or keywords utilized by any internet search engine or other directory or referral services (e.g. Yahoo Search Marketing, Google, etc. (each, a "Search Engine")) to return or prompt internet search results if such keyword is, includes, or is confusingly similar to any Apple trademark or service mark, (including but not limited to Apple, iTunes, App Store, iBooks Store, Mac App Store, iMac, Apple Store, Mac, MacBook, iPod and iPhone; for a complete list of Apple's trademarks, please see Apple's website at <http://www.apple.com/legal/trademark/appletmlist.html>). Publisher may be required to employ negative keyword matching to prevent violation of this Section. Publisher may bid on generic search terms (MP3, music, video, etc.) from Search Engines provided that Publisher's search terms, listing titles, and descriptions, and the content of their Publisher Properties do not violate the copyright or any other rights of Apple or any third party, as determined by Apple at its sole discretion, or otherwise violate the Terms of Service for the Search Engine that will display the advertising.

4.3. Other than by way of permitted use of the Advanced Linking Tools, Publisher may not employ any mechanical means to pull content from any Store or Apple site, including, but not limited to, programmatic crawling, downloading, viewing, or scraping.

4.4. Publisher shall not make any representations, warranties or other statements concerning Apple, any Store or Apple site, any of Apple's products or services, or Apple's site policies, except as expressly authorized by the Program Terms and Conditions.

4.5. Publisher is responsible for notifying PHG or Apple of any malfunctioning of the Qualifying Links or other problems with Publisher's participation in the Program.

4.6. Publisher will not present or use any content on its Publisher Property, including, without limitation, graphical images, logos, text copy, editorial copy, press releases or marks, that (i) could be interpreted to suggest that such content has been authored or otherwise provided by, or represents the views or opinions of, Apple; (ii) is misleading, defamatory, libelous, obscene, or otherwise objectionable; (iii) infringes, derogates, dilutes, or impairs the rights of Apple or any third party; (iv) refers to Apple but is used as part of a name of a product or service of a company other than Apple; or (v) is used in any other manner inconsistent with any term of the Program Terms and Conditions or with any provision of law.

4.7. Publisher will not engage in deceptive software download or computer settings practices to promote Apple, the Stores or any Apple site. The prohibited deceptive practices include, but are not limited to, installing software without user knowledge, changing a user's home page without securing user permission, and offering downloadable software that does not install or operate as intended.

4.8. Publisher will not list or refer to Apple as a sponsor of any promotion without Apple's prior written approval.

5. Links.

5.1. Publisher is solely responsible for testing links to ensure they are working properly. Neither PHG, Apple, nor authorized third party vendors shall have any liability for inoperable or incorrectly placed links.

5.2. Publisher shall monitor all links to ensure operability. This includes testing and maintaining current databases of links.

6. Commissions.

6.1. Publisher shall earn the commission specified in the offer posted in the Publisher Management Area if a Store customer (a "Customer") purchases a commission-eligible product or service that is the subject of the Program during a Session (defined below), and if such Customer has accessed the Store and purchased such product or service via a Qualifying Link (as defined below). The list of products and services that will be eligible for a commission under the Program can be found in the Publisher Management Area. Products and services eligible for a commission are subject to change without notice in Apple's sole discretion and Publisher shall check the updated list of commission-eligible products and services on a daily basis. Neither Apple nor PHG shall bear any responsibility for payment of a commission on commission-ineligible products or services, or ineligible sales (including where products or services are purchased for unauthorized purposes).

6.2. A "Session" is the period of time beginning when a Customer initially arrives at a Store via a Qualifying Link from the Publisher's Publisher Property ("Initial Contact"), and ending at the earliest of (i) 24 hours after Initial Contact, (ii) the time at which the same Customer subsequently arrives at any Store via another publisher link (iii) the time at which the Customer deletes cookies from his or her device or computer, or (iv) the expiration or termination of the applicable Program Term. For avoidance of doubt, no Qualifying Link shall exist if it includes any call to action other than for the purchase of a product or service from a Store; and Publisher acknowledges that a Session will not commence unless cookies are enabled on the Customer's device or computer.

6.3. Publisher acknowledges and agrees that Apple shall have the sole right and responsibility for processing all orders made by Customers. Publisher acknowledges that all agreements relating to sales to Customers shall be between Apple and the Customer.

6.4. The determination as to whether a sale is made via a Qualifying Link, and whether a commission is payable, will be made by Apple and is final and binding on both Publisher and PHG. As between PHG and Apple, prices for the products and services will be set solely by Apple, or the seller of the content (as applicable), in its sole discretion.

6.5. Publisher shall not be entitled to commissions and shall reverse any commissions already paid (upon PHG's request or upon Apple's request to PHG) if, in PHG's or Apple's judgment, Publisher (i) is in breach of this Agreement, (ii) has engaged in any misleading or fraudulent activity, including, but not limited to, cookie stuffing, cloaking, or forcing pop-ups, or (iii) is uncooperative or deceptive in relation to an investigation by Apple and/or PHG into Publisher's activities under this Agreement.

7. Ownership and Licenses.

7.1. Publisher, PHG and Apple, each and individually, owns and shall retain all right, title and interest in its names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology,

including, without limitation, those names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology currently used or that it may use or develop in the future.

7.2. PHG, if authorized by Apple, grants Publisher a revocable, non-exclusive, worldwide license to use, reproduce and transmit the name, logos, trademarks, service marks, trade dress and proprietary technology posted on the Publisher Management Area solely for the purpose of creating links from Publisher's Publisher Property to the Stores in connection with the Program. Except as expressly set forth in these Program Terms and Conditions or permitted by applicable law, Publisher may not copy, distribute, modify, reverse engineer, or create derivative works from the same. Any goodwill resulting from Publisher's use of Apple's name, logos, trademarks, service marks and trade dress will inure solely to the benefit of Apple and will not create any right, title or interest for Publisher. Publisher shall not sublicense, assign or transfer any such licenses for the use of the same, and any attempt at such sublicense, assignment or transfer is void. To the extent the registration of licensing of intellectual property rights is required under applicable law, Publisher shall file a respective license agreement or any other agreement, which governs the licensing of intellectual property rights, and register it with a relevant authority.

7.3. Publisher may use only the Creative posted in the Publisher Management Area, and only in connection with the Program. Creative is to be used solely for the purpose of advertising content on the Stores. Publisher's use of the Creative shall comply with the Publisher Identity Guidelines (<http://www.apple.com/itunes/link/>), which may change from time to time. Publisher shall not use the Creative in connection with any activity that disparages Apple, or its products or services, or that damages the reputation for quality inherent in the same. The use of creative or content that is posted on other sites, found in other emails or other sources, manipulated in any way or derived from any means besides the Publisher Management Area is not permitted. If Publisher does not fully comply with this provision Apple may withhold commissions, immediately cause PHG to terminate the Agreement, require that PHG immediately remove Publisher from the Program, or utilize any remedy otherwise available in law or in equity.

7.4. Publisher's use of the names, logos, trademarks, service marks, and trade dress pursuant to Section 7.2 and 7.3 must be in a manner that is clearly less prominent than that of Publisher's name, logos, trademarks, service marks, trade dress, products and/or Publisher Property name. Publisher shall not create or attempt to create an impression that there is an association or affiliation between Apple and Publisher beyond the arrangement that the Agreement governs.

7.5. Publisher shall always maintain the quality of its services at a level satisfactory to PHG and Apple. PHG and Apple shall at all times have the right to review Publisher's activities related to the Agreement.

7.6. Publisher shall immediately cease using Apple's name, logos, trademarks, service marks, trade dress, proprietary technology and any other Creative upon the termination of its participation in the Program.

7.7. Publisher grants PHG a non-exclusive, worldwide, royalty-free license, with right to sublicense, to use, reproduce and transmit any graphic or banner ad submitted by Publisher solely for co-branding purposes or as a return link from Apple's site to Publisher's Publisher Property. PHG will ensure that Apple will remove such graphic or banner ad upon Publisher's request.

8. Confidentiality.

8.1. Except as otherwise provided in the Program Terms and Conditions or with Apple's prior written consent, Publisher agrees that all information including, without limitation, the terms of the Program Terms and Conditions, Apple's business and financial information, its customer lists, and its pricing and sales information, shall remain strictly confidential and shall not be utilized, directly or indirectly, by Publisher for its own business purposes or for any other purpose. Notwithstanding the foregoing, Publisher may deliver a copy of any such information (a) pursuant to a court order, or by any administrative agency (provided that a court order is not required by applicable law), (b) to its accountants, attorneys, or other agents on a confidential basis, and (c) otherwise as required by applicable law, rule, regulation or legal process, provided Publisher provides Apple notice of such requirement prior to any such disclosure, and takes reasonable steps to obtain protective treatment of such information.

8.2. Publisher acknowledges and agrees that Apple shall own and retain all right, title and interest in all names, addresses and other identifying information of Customers visiting Apple's sites ("Customer Data") that Apple collects, including without limitation, Customers who access Apple's sites through Qualifying Links, and Publisher shall have no right to use any such Customer Data.

9. Privacy.

9.1. Publisher shall not send out any emails, directly or indirectly, that advertise or promote Apple, its products, services, web sites, or offers without Apple's prior express written consent, and Apple's approval of final email content must be obtained from Apple in each and every instance; provided, however, if such advertisement or promotion included in such email is limited solely to the inclusion of a Qualified Link, then no such consent of Apple shall be required. Publisher emails must comply with any

applicable local laws that apply to the transmission of Publisher's emails (including, for example, the United States CAN-SPAM Act of 2003).

9.2. Publisher shall not send any email or other form of electronic message, advertisement or other promotional communication containing Apple's name, product or service, web site address, metatag or any other type of identifier to any recipient unless the recipient has directly consented to receive such communication from Publisher or Publisher has a pre-existing business relationship with the recipient which legally allows Publisher to send such communications. In addition, Publisher agrees to provide a recipient of such communication with the ability to "opt out" of further communications from Publisher either by calling a toll free number or by sending an "unsubscribe" email to Publisher.

10. Termination.

10.1. Participation of Publisher in the Program through the Publisher Management Area or the Agreement may be terminated by PHG with immediate effect on notice to Publisher for any reason, including but not limited to at Apple's request upon Apple's (i) determination that there are technical or operational issues (e.g., interruptions caused by, or shifts in, online/Internet technology) that adversely affect compliance with the Agreement, or (ii) suspicion that Publisher may be involved in misleading or fraudulent activity. In addition, PHG may immediately suspend or terminate a Publisher in the event any Publisher materially breaches or violates any term or condition of the Agreement, or if Publisher attempts to generate commissions fraudulently, through misrepresentation or any violation of the terms of the Agreement; in which case, PHG reserves the right to withhold payment of commissions pending an investigation of the suspected fraud, breach or misrepresentation. Termination of the Agreement shall also terminate any and all outstanding Program Terms and Conditions. However, all rights to payment for undisputed amounts, causes of action and any provisions that by their terms are intended to survive termination shall survive termination of the Agreement.

10.2. The Agreement shall commence once Publisher has accepted the terms of the Agreement and Publisher's application for the Program has been approved, and shall terminate as set out herein.

10.3. Publisher expressly agrees to waive and set aside their respective rights and obligations under any applicable law in the event of any termination of the Agreement to the extent that such law requires any judicial pronouncement for the termination of the Agreement.

11. Representations.

11.1. Publisher and PHG represent to the other that it has the authority to enter into these Program Terms and Conditions, perform its obligations herein, and sufficient rights to grant any licenses granted herein.

11.2. Publisher represents that: (a) the contents of its Publisher Property (as applicable) do not (i) infringe on Apple's or any third party's copyright, patent, trademark, trade secret or other proprietary right or right of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation; (iii) contain defamatory or libelous material; (iv) contain lewd, pornographic or obscene material; (v) violate any laws regarding unfair competition, antidiscrimination or false advertising; (vi) promote violence or contain hate speech; or (vii) contain viruses, trojan horses, worms, time bombs, or other similar harmful or deleterious programming routines; and (b) that Publisher has and complies with a privacy policy that is prominently displayed on its Publisher Property (as applicable) and in conformity with applicable privacy laws.

11.3. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PHG NOR APPLE MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE PROMO CONTENT, ADVANCED LINKING TOOLS, CREATIVE, BADGES, AND ANY OTHER MATERIALS OR TECHNOLOGY PROVIDED DIRECTLY OR INDIRECTLY BY OR FOR APPLE, OR THEIR USE AND OPERATION, ALONE OR IN COMBINATION WITH YOUR MATERIALS. ALL SUCH PROMO CONTENT, ADVANCED LINKING TOOLS, CREATIVE, BADGES, AND ANY OTHER MATERIALS OR TECHNOLOGY, ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND PHG AND APPLE DO NOT WARRANT THAT ANY OF THE FOREGOING WILL MEET YOUR REQUIREMENTS, THAT ANY USE OR OPERATION (IF APPLICABLE) WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ANY DEFECTS WILL BE CORRECTED, OR WILL BE COMPATIBLE WITH ANY PRODUCTS, SOFTWARE, OR SERVICES. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PHG OR APPLE OR AN PHG OR APPLE AUTHORIZED REPRESENTATIVE WILL CREATE A WARRANTY.

12. Indemnification. Publisher agrees to indemnify and hold harmless, and at Apple's request, defend, Apple and its affiliates, directors, officers, employees and agents, from and against any and all liability, claims, losses, damages, injuries or expenses (including reasonable attorneys' fees) brought by a third party, arising out of the Program or this Agreement, including but not limited to a breach, or alleged breach, of any of its representations or obligations herein. If requested, Publisher will assume control of the defense or settlement of such claim, provided that Publisher shall not take any position adverse to Apple's interests, and shall meaningfully consult with Apple, with respect to such defense or settlement. Apple shall have the right, at its expense and with its chosen counsel, to participate in the defense of any such claim and/or, at Apple's discretion, to settle any such claim at its expense.

13. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PHG OR APPLE BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) ARISING IN ANY WAY OUT OF THE PROGRAM OR THIS AGREEMENT, HOWEVER CAUSED AND WHETHER UNDER THEORY OF CONTRACT, DELICT OR TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF PHG OR APPLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

14. General.

14.1. Publisher and PHG shall act as an independent contractor and shall have no authority to obligate or bind the other in any respect. Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between Apple and Publisher, or to authorize either Apple or Publisher to act as agent for the other, and neither Apple or Publisher shall have authority to act in the name of, 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). In particular, but without limitation, Publisher (a) shall not act as the agent of Apple and shall have no authority to solicit orders from, or to make representations to, potential customers of Apple's products or services, (b) shall in no event act on behalf of Apple and/or oblige Apple by any means whatsoever, and (c) shall make the limitations in paragraphs (a) and (b) above clear to any third party.

14.2. PHG may modify any of the terms and conditions contained in this Agreement, at any time and in its sole discretion, by posting a change notice or a new agreement on the Publisher Management Area and giving Publisher notice of the modification through the Publisher Management Area or through a subsequent written agreement between the parties. IF ANY MODIFICATION IS UNACCEPTABLE TO PUBLISHER, ITS ONLY RECOURSE IS TO TERMINATE THIS AGREEMENT. PUBLISHER'S CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING APPLE'S POSTING OF A CHANGE NOTICE OR A NEW AGREEMENT ON THE PUBLISHER MANAGEMENT AREA WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE OR NEW AGREEMENT, AS APPLICABLE.

14.3. Publisher and PHG agree that Apple shall be a third-party beneficiary and shall acquire rights hereunder and be entitled to enforce terms of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999. 14.4. Except as otherwise required by applicable law, these Program Terms and Conditions have been made in and shall be construed and enforced in accordance with the laws of England and Wales, and the English courts shall have exclusive jurisdiction over any disputes arising out of this Agreement. Publisher consents to the exclusive jurisdiction of such courts, agree to accept service or process by mail, and waive any jurisdictional or venue defenses otherwise available. Notices to Apple should be directed by certified mail to Affiliate Program, iTunes Marketing, 1 Infinite Loop MS 12-CB, Cupertino, California 95014, with a copy to Apple Inc. Legal Department, Internet Software and Services, 1 Infinite Loop MS: 169-4ISM, Cupertino, CA 95014.

14.5. This Agreement may be agreed to in more than one counterpart, each of which together shall form one and the same instrument. Publisher and PHG agree that execution may be achieved in any format convenient to the Publisher and PHG. Publisher will express affirmative acceptance of this Agreement's terms and conditions by so indicating when asked to do so on the Publisher Management Area, and if requested, at a designated Apple's site.

14.6. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Publisher and PHG acknowledge and agree to the preparation and execution of this Agreement in the English language only.

Last updated: 6th July 2017