



## PARTNER TERMS AND CONDITIONS

This Partner Program Operating Agreement (the "Agreement") is made and entered into by and between yBox ("yBox" or "we"), and the party submitting an application to become a yBox partner ("Partner"). The terms and conditions contained in this Agreement apply to Partner's participation with springmedia.hasoffers.com ("Partner Program"). In connection with the Partner Program, Partner may see offers (each, an "Offer") by yBox or a third party (each such third party a "Client") that may link to a specific web site for that particular Offer ("Program Web Site"). Furthermore, each Offer may have additional terms that are incorporated as part of this Agreement. By submitting an application or participating in an Offer, Partner expressly consents to all the terms and conditions of this Agreement and the individual accepting this Agreement represents that he or she has the authority to bind the Partner to the terms of this Agreement.

### Enrollment in the Partner Program

Partner must submit an Partner Program application from yBox's website. Partner must provide accurate and complete information in Partner's application. After yBox reviews Partner's application, yBox will notify Partner of Partner's acceptance or rejection to the Partner Program. yBox may accept or reject Partner's application at yBox's sole discretion for any reason.

### Obligations of the Parties

Subject to yBox's acceptance of Partner as a partner and Partner's continued compliance with the terms and conditions of this Agreement, yBox agrees as follows:

1. yBox will make available to Partner via the Partner Program graphic and textual links to the Program Web Site and/or other creative materials (collectively, the "Links") which Partner may display on web sites owned or controlled by Partner, in emails sent by Partner and in online advertisements (collectively, "Media"). The Links will serve to identify Partner as a member of yBox's Partner Program and will establish a link from Partner's Media to the Program Web Site.
2. yBox will pay Partner for each Qualified Action (the "Commission"). A "Qualified Action" means an individual person who (i) accesses the Program Web Site via the Link, where the Link is the last link to the Program Web Site, (ii) is not a computer generated user, such as a robot, spider, computer script or other automated, artificial or fraudulent method to appear like an individual, real live person (as determined by yBox), (iii) is not using pre-populated fields, (iv) completes all of the information required for such action within the time period allowed by yBox, and (v) is not later



determined by yBox to be fraudulent, incomplete, unqualified or a duplicate user.

3. yBox will pay Partner any Commissions earned on a monthly basis, provided that the total Commissions yBox owes you is greater than \$0. Accounts with a balance of less than \$0 will roll over to the next month and will continue to roll over monthly until the \$0 minimum is reached. yBox reserves the right to charge back to Partner's account any previously paid Qualified Actions that are later determined to have not met the requirements to be a Qualified Action.
4. Payment for Commissions is dependent upon Clients providing such funds to yBox, and therefore, Partner agrees that yBox shall only be liable to Partner for Commissions to the extent that yBox has received such funds from the Clients.
5. yBox shall automatically generate an invoice on behalf of Partner for all Commissions payable under this Agreement and shall remit payment to Partner based upon that invoice. All tracking of Links and determinations of Qualified Actions and Commissions shall be made by yBox in its sole discretion. In the event that Partner disputes in good faith any portion of an invoice, Partner must submit that dispute to yBox in writing and in sufficient detail within thirty (30) days of the date on the invoice. If Partner does not dispute the invoice as set forth herein, then Partner agrees that it irrevocably waives any claims or challenges based upon that invoice. In the event that Partner is also tracking Qualified Actions and Partner claims a discrepancy, Partner must provide yBox with Partner's reports within three (3) days after 30th day of the calendar month, and if yBox's and Partner's reported statistics vary by more than 10% and yBox reasonably determines that Partner has used generally accepted industry methods to track Qualified Actions, then yBox and Partner agree to make a good faith effort to arrive at a reconciliation. If the parties are unable to arrive at a reconciliation, then yBox's numbers shall govern.
6. If Partner has an outstanding balance due to yBox under this Agreement or any other agreement between the Partner and yBox, whether or not related to the Partner Program, Partner agrees that yBox may offset any such amounts due to yBox from amounts payable to Partner under this Agreement.

Partner also agrees that:

1. It has sole responsibility for the development, operation, and maintenance of, and all content on or linked to, the Media.
2. All materials posted on the Media or otherwise used in connection with the Partner Program (i) are not illegal, (ii) do not infringe upon the intellectual



property or personal rights of any third party, and (iii) do not contain or link to any material which is harmful, threatening, defamatory, obscene, sexually explicit, harassing, promotes violence, promotes discrimination (whether based on sex, religion, race, ethnicity, nationality, disability or age), promotes illegal activities (such as gambling), contains profanity or otherwise contains materials that yBox informs Partner that it considers objectionable (collectively, "Objectionable Content").

3. It will not make any representations, warranties or other statements concerning yBox or Client or any of their respective products or services, except as expressly authorized herein.
4. The Media does not copy or resemble the look and feel of the Program Web Site or create the impression that the Media is endorsed by yBox or Clients or a part of the Program Web Site, without prior written permission from yBox.
5. It will comply with all (i) obligations, requirements and restrictions under this Agreement and (ii) laws, rules and regulations as they relate to its business, its Media or its use of the Links.
6. It will comply with the terms, conditions, guidelines and policies of any third-party services used by Partner in connection with the Partner Program, including but not limited to, email providers, social networking services and ad networks.
7. It will always prominently post and make available to end-users, including prior to the collection of any personally identifiable information, a privacy policy in compliance with all applicable laws that clearly and thoroughly discloses all information collection, use and sharing practices, including providing for the collection of such personally identifiable information in connection with the Partner Program and the provision of such personally identifiable information to yBox and Clients for use as intended by yBox and Clients.
8. It will always prominently post and make available to end-users any terms and conditions in connection with the Offer set forth by yBox or Client, or as required by applicable laws regarding such Offers.
9. It will not place yBox ads on any online auction platform (i.e. eBay, Amazon, etc).

The following additional program-specific terms shall apply to any promotional programs set forth below:

1. **Email Campaigns.** For all email campaigns, Partner must download the "Suppression List" from the Offers section of yBox. Partner shall filter its



email list by removing any entries appearing on the Suppression List and will only send emails to the remaining addresses on its email list. yBox will provide an opt-out method in all Links, however, if any opt-out requests come directly to Partner, Partner shall immediately forward them to yBox at [ho@the-ybox.com](mailto:ho@the-ybox.com). Partner's emails containing the Links may not include any content other than the Links, except as required by applicable law.

2. Partner agrees that failure to download the Suppression List and remove all emails from the database before mailing may result in Commission withholdings, removal or suspension from all or part of the Partner Program, possible legal action and any other rights or remedies available to yBox pursuant to this Agreement or otherwise. Partner further agrees that it will not mail or market to any suppression files generated through the yBox network, and that doing so may result in Commission withholdings, removal or suspension from the Partner Program, possible legal action and any other rights or remedies available to yBox pursuant to this Agreement or otherwise.
3. Advertising Campaigns. No Links can appear to be associated with or be positioned on chat rooms or message or bulletin boards unless otherwise agreed by yBox in writing. Any pop-ups/unders used for the Partner Program shall be clearly identified as being served by Partner in the title bar of the window and any client-side ad serving software used by Partner shall only have been installed on an end-user's computer if the function of the software is clearly disclosed to end-users prior to installation, the installation is pursuant to an affirmatively accepted and plain-English end user license agreement and the software be easily removed according to generally accepted methods.
4. Partner Network Campaigns. For all Partners that maintain their own partner networks, Partner agrees to place the Links in its partner network (the "Partner Network") for access and use by those partners in the Partner Network (each a "Third Party Partner"). Partner agrees that it will expressly forbid any Third Party Partner to modify the Links in any way. Partner agrees to maintain its Partner Network according to the highest industry standards. Partner shall not permit any party to be a Third Party Partner whose web site or business model involves content containing Objectionable Content. All Third Party Partners must be in good standing with Partner. Partner must require and confirm that all Third Party Partners affirmatively accept, through verifiable means, the terms of this Agreement prior to obtaining access to the Links. Partner shall promptly terminate any Third Party Partner who takes, or could reasonably be expected to take, any action that violates the terms and conditions of this Agreement. In the event that either party suspects any wrongdoing by a Third Party Partner with respect to the Links, Partner shall promptly disclose to yBox the identity and contact information for such Third Party Partner. Partner shall promptly remove any Third Party Partner from the Partner Program and terminate



their access to future Offers of yBox in the Partner Network upon written notice from yBox. Partner shall remain liable for all acts or omissions of any Third Party Partner.

## **Confidentiality**

For purposes of the Agreement, "Confidential Information" shall mean all data and information, of a confidential nature or otherwise, disclosed during the term of the Agreement by one party ("Disclosing Party") to the other party ("Receiving Party"), as well as information that the Receiving Party knows or should know that the Disclosing Party regards as confidential including, but not limited to:

1. a party's business plans, strategies, know how, marketing plans, suppliers, sources of materials, finances, business relationships, personally identifiable end-user information, pricing, technology, employees, trade secrets and other non-public or proprietary information whether written, oral, recorded on tapes or in any other media or format;
2. the material terms of the Agreement; and
3. any information marked or designated by the Disclosing Party as confidential.

The Receiving Party agrees to hold all Confidential Information in trust and confidence and, except as may be authorized by the Disclosing Party in writing, shall not use such Confidential Information for any purpose other than as expressly set forth in the Agreement or disclose any Confidential Information to any person, company or entity, except to those of its employees and professional advisers:

1. who need to know such information in order for the Receiving Party to perform its obligations hereunder; and
2. who have entered into a confidentiality agreement with the Receiving Party with terms at least as restrictive as those set forth herein.

Confidential information shall not include any information that the Receiving Party can verify with substantial proof that:

1. is generally available to or known to the public through no wrongful act of the receiving party;
2. was independently developed by the Receiving Party without the use of Confidential Information; or



3. was disclosed to the Receiving Party by a third party legally in possession of such Confidential Information and under no obligation of confidentiality to the Disclosing Party.

The Receiving Party agrees that monetary damages for breach of confidentiality may not be adequate and that the disclosing party shall be further entitled to injunctive relief, without the requirement to post bond.

### **Limited License & Intellectual Property**

Partner may not alter, modify, manipulate or create derivative works of the Links or any yBox graphics, creative, copy or other materials owned by, or licensed to, yBox in any way. Partner is only entitled to use the Links to the extent that Partner is a member in good standing of the Partner Program. yBox may revoke Partner's license any time by giving Partner written notice. Except as expressly stated herein, nothing in this Agreement is intended to grant Partner any rights to any of yBox's trademarks, service marks, copyrights, patents or trade secrets. Partner agrees that yBox may use any suggestion, comment or recommendation Partner chooses to provide to yBox without compensation for any purpose. All rights not expressly granted in this Agreement are reserved by yBox.

### **Termination**

This Agreement shall commence on the date of yBox's approval of Partner's Partner Program application and shall continue thereafter until terminated as provided herein. Partner may terminate Partner's participation in the Partner Program at any time by removing all Links from Partner's Media and deleting all copies of the Links. yBox may terminate Partner's participation in one or more Offers or this Agreement at any time and for any reason which yBox deem appropriate with or without prior notice to Partner by disabling the Links or providing Partner with a written notice. Upon termination of Partner's participation in one or more Offers or this Agreement for any reason, Partner will immediately cease all use of and delete all Links, plus all yBox or Client intellectual property, and will cease representing yourself as a yBox or Client partner for such one or more Offers. All rights to validly accrued payments, causes of action and any provisions, which by their terms are intended to survive termination, shall survive any termination.

### **Suspension**

In addition to any other rights and remedies available to yBox under this Agreement yBox reserves the right to delete any actions submitted through Partner's Links and withhold and freeze any unpaid Commissions or charge back paid Commissions to Partner's account if (i) yBox determines that Partner has violated this Agreement, (ii) yBox receives any complaints about Partner's participation in the Partner Program which yBox reasonably believes is in violation this Agreement or (iii) any Qualified Action is later determined to have not met the



requirements set forth in this Agreement or on the Partner Program. Such withholding or freezing of Commissions, or charge backs for paid Commissions, shall be without regard as to whether or not such Commissions were earned as a result of such breach. In the event of a material breach of this Agreement, yBox reserves the right to disclose Partner's identity and contact information to appropriate law enforcement or regulatory authorities or any third party that has been directly damaged by Partner's actions. Such suspension will be in addition to yBox's available rights and remedies.

### **Anti-Spam Policy**

Partner must strictly comply with the federal CAN-SPAM Act of 2003 (the "Act"). All emails sent in connection with the Partner Program must include the appropriate party's opt-out link. From time to time, yBox may request - prior to Partner's sending emails containing linking or referencing the Partner Program that Partner submit the final version of Partner's email to yBox for approval by sending it to Partner's yBox representative and upon receiving written approval from yBox of Partner's email the email may be transmitted to third parties.

It is solely Partner's obligation to ensure that the email complies with the Act. Partner agrees not to rely upon yBox's approval of Partner's email for compliance with the Act or assert any claim that Partner are in compliance with the Act based upon yBox's approval.

### **Fraud**

Partner is expressly prohibited from using any persons, means, devices or arrangements to commit fraud, violate any applicable law, interfere with other partners or falsify information in connection with referrals through the Links or the generation of Commissions or exceed Partner's permitted access to the Partner Program. Such acts include, but are in no way limited to, using automated means to increase the number of clicks through the Links or completion of any required information, using spyware, using stealware, cookie-stuffing and other deceptive acts or click-fraud. yBox shall make all determinations about fraudulent activity in its sole discretion.

### **Representations and Warranties**

The parties agree to the terms in the General Data Protection Regulation Data Processing Addendum, which is incorporated into this Agreement.

Partner represents and warrants that:

1. it has the power and authority to enter into and perform its obligations under the Agreement;



2. at all times, the Media and Partner itself will comply with all applicable foreign, federal, state or local laws, rules, regulations and ordinances including, without limitation, the Gramm-Leach Bliley Act, the Fair Credit Reporting Act, the Federal Trade Commission Act, CAN-SPAM, the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act, the Federal Communications Act, and all rules and regulations promulgated under any of the foregoing, as well as all applicable state laws including, without limitation, the California Financial Privacy Act and the Vermont Consumer Protection Act, and all rules and regulations promulgated under such state laws (collectively, "Laws");
3. it owns and/or has any and all rights in the Media as contemplated by the Agreement;
4. at all times, the Media and Partner itself will not violate any applicable rights of any third party including, but not limited to, infringement or misappropriation of any copyright, patent, trademark, trade secret or other proprietary, property or other intellectual property right;
5. Partner has a reasonable basis for any and all claims made within the Media and possesses appropriate documentation to substantiate such claims;
6. Partner shall fulfill all commitments made in the Media;
7. no Media is targeted to end-users under the age of eighteen (18);
8. prior to loading any computer program onto an individual's computer including, without limitation, programs commonly referred to as adware and/or spyware, and cookies, Partner shall provide clear and conspicuous notice to, and shall obtain the express consent of, such individual to install such computer program and/or cookies;
9. the Media does not and will not:
  1. contain any misrepresentations or content that is defamatory;
  2. contain content that is violent, obscene, offensive, including content that contains nudity or implied nudity or content that is morally or ethically offensive or sexually suggestive;
  3. promote or support gambling or sweepstakes or contests; or
  4. contain any "worm," "virus" or other device that could impair or injure any person or entity;
10. Partner is not, nor is Partner acting on behalf of any person or entity that is, prohibited from engaging in transactions with U.S. citizens, nationals or entities under applicable U.S. law and regulation including, but not limited





to, regulations issued by the U.S. Office of Foreign Assets Control ("OFAC"); and

11. Partner is not, nor is Partner acting on behalf of any person or entity that is, a Specially Designated National ("SDN"), as OFAC may so designate from time to time.

### **Modifications**

In addition to any notice permitted to be given under this Agreement, yBox may modify any of the terms and conditions of this Agreement at any time by providing Partner with a notification by email. The changes will become effective ten (10) business days after such notice. If the modifications are unacceptable to Partner, Partner may terminate this Agreement without penalty solely on the account of such termination within such ten (10) business day period. Partner's continued participation in this Partner Program ten (10) business days after a change notice has been posted will constitute Partner's acceptance of such change.

In addition, yBox may change, suspend or discontinue any aspect of an Offer or Link or remove, alter, or modify any tags, text, graphic or banner ad in connection with a Link. Partner agrees to promptly implement any request from yBox to remove, alter or modify any Link, graphic or banner ad that is being used by Partner as part of the Partner Program.

### **Independent Investigation**

Partner acknowledges that it has read this Agreement and agrees to all its terms and conditions. Partner has independently evaluated the desirability of participating in the Partner Program and each Offer and is not relying on any representation, guarantee or statement other than as set forth in this Agreement or on the Partner Program.



## **Indemnification**

Partner shall irrevocably defend, indemnify and hold yBox and Clients and each of their respective employees, officers, directors, members, managers, shareholders, contractors and agents harmless from and against any and all liability, loss, damage or expense (including, without limitation, reasonable attorneys' fees, costs and expenses) arising out of or related to any allegation, claim or cause of action, involving:

1. Partner's breach of the Agreement;
2. the Media; and/or
3. any claim that yBox is obligated to pay any taxes in connection with Partner's participation hereunder.

## **Disclaimers**

THE AFFILIATE PROGRAM AND LINKS, AND THE PRODUCTS AND SERVICES PROVIDED IN CONNECTION THEREWITH, ARE PROVIDED TO AFFILIATE "AS IS". EXCEPT AS EXPRESSLY SET FORTH HEREIN, YBOX EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. YBOX DOES NOT WARRANT THAT THE AFFILIATE PROGRAM OR LINKS WILL MEET AFFILIATE'S SPECIFIC REQUIREMENTS OR THAT THE OPERATION OF THE AFFILIATE PROGRAM OR LINKS WILL BE COMPLETELY ERROR-FREE OR UNINTERRUPTED. YBOX EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY ACT OR OMISSION OF A CLIENT OR THEIR PRODUCTS OR SERVICES. YBOX DOES NOT GUARANTEE THAT AFFILIATE WILL EARN ANY SPECIFIC AMOUNT OF COMMISSIONS.

## **Limitation of Liability**

IN NO EVENT SHALL YBOX BE LIABLE FOR ANY UNAVAILABILITY OR INOPERABILITY OF THE LINKS, PROGRAM WEB SITES, TECHNICAL MALFUNCTION, COMPUTER ERROR, CORRUPTION OR LOSS OF INFORMATION, OR OTHER INJURY, DAMAGE OR DISRUPTION OF ANY KIND BEYOND THE REASONABLE CONTROL OF YBOX. IN NO EVENT WILL YBOX BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PERSONAL INJURY / WRONGFUL DEATH, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF BUSINESS OPPORTUNITY, EVEN IF SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT YBOX HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. YBOX'S CUMULATIVE LIABILITY TO AFFILIATE, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, WILL BE LIMITED TO AND WILL NOT EXCEED THE



AMOUNTS PAID TO AFFILIATE BY YBOX IN COMMISSIONS DURING THE SIX (6) MONTHS IMMEDIATELY PRIOR TO SUCH CLAIM.

### **Force Majeure**

Other than with respect to payment obligations arising hereunder, neither party will be liable, or be considered to be in breach of this Agreement, on account of such party's delay or failure to perform as required under the terms of this Agreement as a result of any causes or conditions that are beyond such party's reasonable control and that such party is unable to overcome through the exercise of commercially reasonable diligence (a "Force Majeure Event"). If any such Force Majeure Event occurs including, without limitation, acts of God, fires, explosions, telecommunications, Internet or Partner Network failure, results of vandalism or computer hacking, storm or other natural occurrences, national emergencies, acts of terrorism, insurrections, riots, wars, strikes or other labor difficulties, or any act or omission of any other person or entity, the affected party will give the other party notice and will use commercially reasonable efforts to minimize the impact of any such event.

### **Governing Law & Miscellaneous**

1. Assignment. Partner may not assign, transfer or delegate any of its rights or obligations under the Agreement without the prior written consent of yBox, and any attempts to do so shall be null and void; provided, however, that either party may assign the Agreement or any portion hereof/thereof, to:
  1. an acquirer of all or substantially all of such party's equity, business or assets;
  2. a successor in interest whether by merger, reorganization or otherwise; or
  3. any entity controlling or under common control with such party.
2. Choice of Law/Venue. The Agreement shall be construed in accordance with and governed by the laws of the State of Washington. In the event that any suit, action or other legal proceeding shall be instituted against either party in connection with the Agreement, each hereby submits to a court of competent jurisdiction located in King County, Washington, and further agrees to comply with all the requirements necessary to give such court jurisdiction.
3. Non-Waiver/Severability. No waiver of any breach of any provision of the Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. If any provision contained in the Agreement is determined to be invalid, illegal or unenforceable in any respect under any applicable law, then such provision will be severed and replaced with a new provision that most closely reflects the real intention of the parties, and the remaining provisions of the Agreement will remain in full force and effect.



4. Relationship of the Parties. The parties hereto are independent contractors. There is no relationship of partnership, agency, employment, franchise or joint venture between the parties. Neither party has the authority to bind the other, or incur any obligation on its behalf.

By submitting and application to Partner Program, Partner affirms and acknowledges that Partner has read this Agreement in its entirety and agrees to be bound by all of its terms and conditions. If Partner does not wish to be bound by this Agreement, Partner should not submit an application to Partner Program. If an individual is accessing this Agreement on behalf of a business entity, by doing so, such individual represents that they have the legal capacity and authority to bind such business entity to this Agreement.

#### **LGPD - General Data Protection Law**

The conditions of its traffic are in accordance with the Brazilian legislation, even complying with the terms of Law no. 13,709 / 2018 ("LGPD - General Data Protection Law") and related rules.

#### **GDPR Data Processing Addendum**

This General Data Protection Regulation Data Processing Addendum ("GDPR Addendum") is incorporated by reference into the Partner Program Operating Agreement by and between You ("Partner"), and Us ("Network" or Processor"), (collectively, the "Agreement"). This GDPR Addendum is entered into as of the date of the Partner Program Operating Agreement.

This GDPR Addendum sets out the terms that apply when Personal Data, as defined in the Data Protection Legislation, is processed by Network under the Agreement. The purpose of the GDPR Addendum is to ensure such processing is conducted in accordance with applicable laws, including EU Data Protection Legislation, and with due respect for the rights and freedoms of individuals whose Personal Data are processed.

#### **DEFINITIONS**

Capitalized terms used but not defined in this GDPR Addendum have the same meanings as set out in the Agreement.

**Data Protection Legislation:** (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.



## Applicability

Applicability. This GDPR Addendum shall only apply to the extent Partner is established within the European Union ("EU") or Switzerland or the United Kingdom and/or to the extent Network processes Personal Data of Data Subjects located in the EU or Switzerland or the United Kingdom on behalf of Partner.

## Data Protection

Both parties will comply with all applicable requirements of the Data Protection Legislation. This Section 1 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

The parties acknowledge that for the purposes of the Data Protection Legislation, the Partner is the data controller and Network is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

Without prejudice to the generality of clause 1.1, the Partner, as Controller, shall be responsible for ensuring that, in connection with Partner Personal Data and the Services, (i) it has complied, and will continue to comply, with all applicable laws relating to privacy and data protection, including EU Data Protection Legislation; and (ii) it has, and will continue to have, the right to transfer, or provide access to, the Personal Data to Network for processing in accordance with the terms of the Agreement and this GDPR Addendum.

Without prejudice to the generality of clause 1.1, Network shall, in relation to any Personal Data processed in connection with the performance by Network of its obligations under this agreement:

1. process that Personal Data only for the purposes set forth in the Agreement and Schedule 1 and only in accordance with the lawful, documented instructions of Partner, except where otherwise required by applicable law. Any processing required outside of the scope of these instructions (inclusive of the rights and obligations set forth under the Agreement) will require prior written agreement of the parties. Where Network is relying on laws of a member of the EU or EU law as the basis for processing Personal Data, Network shall promptly notify the Partner of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Network from so notifying the Partner;
2. ensure that it has in place appropriate technical and organizational measures, available for review and approval by the Partner, to protect against unauthorized or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorized or unlawful processing



or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organizational measures adopted by it);

3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and Network complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
4. assist the Partner, at the Partner's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators. For the avoidance of doubt, Partner is responsible for responding to Data Subject request for access, correction, restriction, objection, erasure or data portability of that Data Subject's Personal Data;
5. notify the Partner without undue delay on becoming aware of a Personal Data breach;
6. upon termination or expiration of the Agreement, in accordance with the terms of the Agreement and within a reasonable amount of time, delete or make available to Partner for retrieval all relevant Personal Data in Network's possession; except to the extent that Network is required by any applicable law to retain some or all of such data. Network shall extend the protections of the Agreement and this GDPR Addendum to any such Personal Data and limit any further processing of such Personal Data to only those limited purposes that require the retention; and
7. maintain complete and accurate records and information to demonstrate its compliance with this Section 2.4.

The Partner consents to Network appointing third-party processors of Personal Data under this agreement, including TUNE ("Sub-processors"). Network confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially similar to those set out in this Agreement. As between the Partner and Network, Network shall remain fully liable for all acts or omissions of any Sub-processor appointed by it pursuant to this Section 2.5.

Network may, at any time on not less than 30 days' notice with email sufficing, add or make changes to the Sub-processors. Partner may object in writing to Network's



appointment of a new Sub-processor within five (5) business days of such notice, provided that such objection is based on reasonable grounds relating to data protection. In such event, the parties will discuss such concerns in good faith with a view to achieving resolution. If Network cannot provide an alternative Sub-processor, or the parties are not otherwise able to achieve resolution as provided in the preceding sentence, Partner, as its sole and exclusive remedy, may terminate the Agreement.

### **Miscellaneous**

Except as stated in this GDPR Addendum, the Agreement will remain in full force and effect. If there is a conflict between the Agreement and this GDPR Addendum, the terms of this GDPR Addendum will control.

Any claims brought under this GDPR Addendum shall be subject to the terms and conditions, including by not limited to, the exclusion and limitations set forth in the Agreement.

### **Schedule 1 Processing, Personal Data and Data Subjects**

#### **Details of Data Processing**

1. **Subject Matter:** The subject matter of the data processing under this GDPR Addendum is the Partner Personal Data.
2. **Duration:** As between Network and Partner, the duration of the data processing under this GDPR Addendum is until the termination of the Agreement in accordance with its terms.
3. **Purpose:** The purpose of the data processing under this GDPR Addendum is the provision of the Services to the Partner and the performance of Network's obligations under the Agreement (including this GDPR Addendum) or as otherwise agreed by the parties in mutually executed written form.
4. **Nature of the processing:** Network provides performance marketing solutions and such other Services as described in the Agreement, which process Partner Personal Data upon the instruction of the Partner in accordance with the terms of the Agreement.
5. **Categories of data subjects:** Partner may submit Partner Personal Data to the Services, the extent of which is determined and controlled by Partner in its sole discretion, and which may include, but is not limited to, Personal Data relating to the following categories of data subjects:



- a. Employees, agents, advisors, freelancers of Partner (who are natural persons); and/or
  - b. Partner's end-users authorized by Partner to use the Services.
6. **Types of Personal Data:** Partner may submit Partner Personal Data to the Services, the extent of which is determined and controlled by Partner in its sole discretion, and which may include, but is not limited to identification and contact data; financial information; and/or certain information about Partner's end users (such as IP address and device identifier).
7. **Sensitive Personal Data (if applicable):** Partner shall not send Network any Sensitive Personal Data (as defined in the Data Protection Legislation).