

TERMS OF SERVICE

1. DEFINITIONS AND INTERPRETATION

- 1.1 **“Advertising Materials”** – any images, graphics, videos, fonts, information, text, data, or other materials provided to RTB House in connection with this Agreement, to be included in the Banner Creations, which may include the Client’s (and/or the End Customer, as defined in Section 4.4, name, trade mark(s) and logo(s);
- 1.2 **“Affiliate”** – any entity that directly or indirectly, controls, is controlled by, or is under common control with a Party, in accordance with applicable laws, where **“control”, “controls”** and **“controlled”** has the meaning given in section 1124 of the Corporation Tax Act 2010;
- 1.3 **“Agreement”** – an agreement for the provision of the Services concluded between the Client and RTB House comprising these Terms of Service (including Data Processing Addendum) and the Order;
- 1.4 **“Applicable Laws”** means the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the Services and/or to advertising activities, including any codes of practice or adjudications of the Committee of Advertising Practice, Broadcast Committee of Advertising Practice or the Advertising Standards Authority in the UK and any equivalent advertising standards in other relevant countries;
- 1.5 **“Authorised Recipients”** – a Party’s Affiliates or such Party’s (or its Affiliates) directors, officers, employees, subcontractors and professional advisors who need to process Confidential Information for the purpose of performance of the Agreement;
- 1.6 **“Banner Creation”** – a digital advertisement of the Client’s products or services, created by RTB House on the basis of the Advertising Materials for the purpose of displaying on the Inventory;
- 1.7 **“Client”** - the person who purchases Services from RTB House, as such person is specified on the Order;
- 1.8 **“Client’s Media”** - digital properties, including websites and mobile applications controlled by the Client;
- 1.9 **“Compensation”** – the payment for the Services;
- 1.10 **“Confidential Information”** – any information of commercial value (in particular concerning the disclosing Party's or its Affiliates’ technology, business, personnel, clients, suppliers, financial situation, trade secrets, know-how, strategies, operations, assets, liabilities, historical, current and projected sales or marketing and advertising plans) which, given the nature of such information and the circumstances of disclosure, the receiving Party has reason to believe the disclosing Party considers confidential, in whatever form that it is disclosed by or on behalf of the disclosing Party to the receiving Party, whether or not marked as confidential;
- 1.11 **“Data Processing Addendum”** – an agreement concerning the processing of personal data of Users for the purpose of providing the Services, constituting an appendix to these Terms of Service;
- 1.12 **“Intellectual Property Rights”** – any patents, industrial designs, copyrights and moral rights, trade marks and service marks, geographical indications, business names and domain names, goodwill and the right to sue for passing off, database rights, rights to use, and protect the confidentiality of, Confidential Information (including, for the avoidance of doubt know-how and trade secrets) and other legal interests recognised or protected as intellectual property under any Applicable Laws, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.;
- 1.13 **“Inventory”** – digital advertising space on third-party websites, mobile websites and mobile applications, on which the Banner Creations are to be displayed;
- 1.14 **“Order”** – an order for Services, executed by the Parties which specifies the scope, duration and the Compensation for the Services as well as any additional terms of providing the Services;

- 1.15 **“Party”** – RTB House or the Client, as the context may require and **“Parties”** shall be interpreted accordingly;
- 1.16 **“RTB House”** – RTB House Limited registered in England and Wales with company number 10523064 whose registered office is at Kemp House, 160 City Road, London, London, United Kingdom, EC1V 2NX;
- 1.17 **“Services”** – digital advertising services specified in the Order, provided by RTB House, consisting of Banner Creation and displaying personalised Banner Creations on the Inventory to Users, including within the real-time bidding environment;
- 1.18 **“User”** – an end user visiting any of the Client’s Media to whom personalised Banner Creations are to be displayed on the Inventory;
- 1.19 **“VAT”** - value added tax or any equivalent tax chargeable in the UK or elsewhere and applicable to the supply of the Services;
- 1.20 **“Working Day”** - any day which is not a Saturday, Sunday or a bank or public holiday in England.
- 1.21 **Interpretation:** (a) any reference to a statute or statutory provision, guidance or code of practice is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision; (b) any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; (c) any reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

2. CONCLUSION OF THE AGREEMENT AND SETTING UP THE SERVICES

- 2.1. The Agreement shall come into existence and shall become binding on the Parties upon execution of the Order by authorised representatives of both Parties.
- 2.2. These Terms of Service (including any special terms specified on the Order) shall apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom practice or course of dealings.
- 2.3. The Order may be executed by the authorised representatives of the Parties: (a) in written form – by exchange of signed documents, (b) in electronic form – by exchange of scanned copies of signed documents via e-mail, or (c) by using e-signature - in accordance with relevant provisions of the Applicable Laws.
- 2.4. Where applicable, RTB House will implement or assist the Client with the implementation of RTB House tracking technologies (tags) on Client’s Media, necessary to collect information on Users activity on such Client’s Media and to perform the Services. RTB House will use reasonable endeavours to comply with Client’s reasonable requests as to the types of tags to be implemented on the Client’s Media and upon Client’s specific instructions will also: (i) provide additional customised tags to be implemented on the Client’s Medias, provided that it does not adversely affect the Services, and (ii) use additional data provided by the Client for the purpose of campaign optimisation.
- 2.5. RTB House will develop Banner Creations based on the Advertising Materials supplied by the Client. RTB House will send draft Banner Creations for the Client’s approval before their display on the Inventory.
- 2.6. The selection and display of Banner Creations by RTB House to the Users will be based in particular on the Banner Creations placement context or the Users’ profiles containing information on User’s prior activity on the Client’s Media. The User profile data will be processed by RTB House exclusively in order to provide Services for the Client and will remain separated from data processed by RTB House on behalf of other clients or its own datasets.
- 2.7. Upon request, the Client will be granted access to the Client panel, enabling management of their advertising campaigns along with an option to suspend or restart campaign activity.

3. REPRESENTATIONS AND OBLIGATIONS OF RTB HOUSE

- 3.1. RTB House hereby represents that: (a) it has all necessary rights and authority to enter into and perform its obligations under the Agreement; (b) the conclusion of this Agreement and the performance of its

respective obligations hereunder do not violate any agreement to which RTB House is a party or by which it is otherwise bound; (c) it holds all necessary rights to its display advertising technology; (d) the tags to be implemented on the Client's digital properties (if applicable) will not contain any malware, in particular viruses, "Trojan horses", "computer worms", "time bombs" or data erasers.

- 3.2. RTB House warrants that it will perform the Services with reasonable care and skill and in accordance with good industry practice.
- 3.3. While providing the Services RTB House will take reasonable measures to protect Client's brand and goodwill, in particular through selection of Inventory for display of Banner Creations in line with Client's instructions.
- 3.4. Except as expressly accepted in these Terms of Services, all warranties whether express or implied are hereby excluded in relation to the Services to be provided by RTB HOUSE.

4. REPRESENTATIONS AND OBLIGATIONS OF THE CLIENT

- 4.1. The Client hereby warrants and represents that at all times during the term of the Agreement: (a) it shall have all necessary rights and authority to enter into and perform its obligations under the Agreement; (b) it shall hold all necessary rights, including, without limitation, Intellectual Property Rights or required licenses to the Advertising Materials supplied to RTB House for use in accordance with this Agreement; (c) the Advertising Materials supplied to RTB House: (i) will not violate any third party Intellectual Property Rights or other rights of third parties, including the right of publicity; (ii) will not include any contents contrary to Applicable Laws or regulations, principles of morality or of social interaction; (iii) will not contain any material which is vulgar, abusive, defamatory, obscene or pornographic, promote aggression or hate speech; (iv) will not contain any malware, in particular viruses, "Trojan horses", "computer worms", "time bombs" or data erasers; and (v) shall comply at all times with all Applicable Laws, including all consumer protection, advertising and marketing codes of practice in any of the jurisdictions where the Client's Banner Creations are displayed; (d) it shall be solely liable towards third parties for the contents and quality of the Advertising Materials supplied to RTB House.
- 4.2. The Client declares that the information provided to RTB House, especially the data included in the Order, is true, complete and up-to-date. If any such information becomes outdated after conclusion of the Agreement, the Client will inform RTB House hereof by sending a message to the following e-mail address: finance.uk@rtbhouse.com not later than within **five (5) Working Days** after the occurrence of such change.
- 4.3. The Client will cooperate with RTB House during the term of the Agreement, provide RTB House with all reasonable information required for proper provision of the Services and comply with all technical requirements and specifications necessary for proper provision of the Services by RTB House. Each Party will inform the other Party about any changes or occurrence of any events which may impact the provision of the Services or mutual cooperation of the Parties.
- 4.4. If the Client is an advertising agency which procures the Service for its customers ("End Customer"), the Client shall ensure that all of Client's obligations under this Agreement are also fulfilled by such End Customers. The Client shall contractually impose on its End Customers obligations which are not less onerous to the Client's obligations under this Agreement and shall be liable towards RTB House for any acts or omissions of its End Customers which are in breach of the provisions of this Agreement, as if each such End Customer was a Party to this Agreement and for this purpose references in this Agreement to "the Client" shall be interpreted as references to the "End Customer".

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1. In order for RTB House to provide the Services under the Agreement, the Client will grant or shall procure the grant to RTB House or RTB House Affiliates, for the period of provision of the Services a royalty free, fully paid-up, non-exclusive, worldwide license to copy and use the Advertising Materials for the purpose of developing the Banner Creations and displaying the Banner Creations on the Inventory.
- 5.2. The above license shall encompass in particular the right for the RTB House to: (a) display and make the Advertising Material available to the public; (b) reproduce, edit, alter, modify and distribute the Advertising Material, in electronic storage media of any kind, as well as to compile and combine them with other content or materials, including the right to use, display, make available or distribute in media of any kind

the edits, alterations, modifications and compilations of the above; (c) record the Advertising Material (in a machine-readable form) and to store them electronically in its own database.

- 5.3. Unless expressly provided herein, this Agreement does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights existing prior to the commencement of this Agreement and/or created by either Party during the term of this Agreement.
- 5.4. All Intellectual Property Rights in and/or arising out of or in connection with the Services shall be owned by RTB House (but excluding the Intellectual Property Rights in the Advertising Materials, which will remain the property of the Client). For the avoidance of doubt, RTB House will own: (a) any content developed by or on behalf of RTB House and included in the Banner Creations (but excluding the Advertising Materials); (b) the design of the Banner Creations; (c) any RTB House technology used in connection with the Services; (d) the Services and any related products and services; and (e) any documentation or other materials regarding the use thereof and related thereto.
- 5.5. RTB House hereby grants the Client, for the period of provision of the Services, a non-exclusive, worldwide license to use the Client's panel to the extent necessary and practicable for the performance of the Agreement. The license shall constitute an integral part of the Services and is granted in consideration of the payment of the remuneration referred to in Section 6.1.

6. PAYMENTS

- 6.1. The method of calculation of the Compensation payable by the Client to RTB House shall be specified in the Order.
- 6.2. All amounts payable by the Client under the Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Agreement by RTB House to the Client, the Client shall, on receipt of a valid VAT invoice from RTB House, pay to RTB House such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 6.3. The payments for Services must be made in the full amount, free of any deductions or withholdings. If there is any mandatory withholding or deduction, the Client shall gross up the payment so RTB House receives the amount invoiced. The Client shall be responsible for settlement of any mandatory withholdings and deductions, if applicable.
- 6.4. The Client shall pay the Compensation via bank transfer within the deadline stated in the invoice in the currency indicated in the Order. The date which appears on RTB House bank statement as the date of receipt of payment is considered the date of payment. In case of failure to meet the deadline for payment indicated in the invoice, the Client will pay interest on due amounts from the due date until payment of the overdue sum at the rate specified in the Order, for each day of default.

7. CONFIDENTIALITY

- 7.1. Subject to Section 7.2 and 7.3 below, each Party undertakes to: (a) hold and maintain the Confidential Information disclosed by the other Party in strict confidence using the same degree of care (but not less than reasonable and due care) that they use with respect to comparable confidential information relating to its own business; (b) restrict access to the Confidential Information only to those Authorised Recipients who: (i) need to know the Confidential Information for the purpose of performance of the Agreement and (ii) agree to be bound by confidentiality obligations comparable to those set out herein; (c) use the Confidential Information only for the purposes related to the performance of the Agreement or analogous future agreements for the provision of Services (and shall cause that neither the receiving Party nor any of its Authorised Recipients use any portion of the Confidential Information for any other purpose).
- 7.2. Neither Party shall be under any obligation to keep confidential any Confidential Information that it can demonstrate: (a) has been independently developed by the receiving Party; (b) was lawfully in receiving Party's possession prior to the disclosure by the disclosing Party (other than as a result of a prior disclosure to the receiving Party by the disclosing Party), provided that the source of such information, insofar as is known to the receiving Party or any of its Authorised Recipients receiving such information was not prohibited from transmitting such information to the receiving Party or its Authorised Recipients by a legal, fiduciary or other obligation; (c) is or becomes public knowledge through no fault, wrongful acts or

omissions of the receiving Party or any of its Authorised Recipients; (d) is furnished to the receiving Party without restriction by any third party on a non-confidential basis, provided that the source of such information was not prohibited from transmitting such information to the receiving Party by a legal, fiduciary or other obligation. The receiving Party will also be released from its obligations under this section 7 if and to the extent the disclosing Party has authorized it in writing the disclosure or use of Confidential Information.

- 7.3. The receiving Party may disclose Confidential Information of the disclosing Party if and to the extent that it is required to do so by the binding law provisions or by a court or regulatory agency or authority, provided that the receiving Party: (a) to the extent permitted by law, notifies the disclosing Party with reasonable prior written notice of the required disclosure; and (b) limits the disclosure to the extent expressly required.
- 7.4. The confidentiality obligations set out in this section shall be binding during the term of the Agreement and for a period of 3 (three) years after its termination or expiration.
- 7.5. The Parties hereby acknowledge that due to the fact that, as a part of providing Services to the Client, Banner Creations displayed on the Inventory will include RTB House's name and logo for a User to be able to get redirected to the RTB House Opt-Out page, therefore the fact of ongoing commercial cooperation between the Parties does not constitute Confidential Information.

8. PRIVACY

- 8.1. The Parties acknowledge that, in order to provide the Services to the Client, RTB House: (a) uses cookies and similar tracking technologies (such as mobile device identifiers) which involve storing of information or gaining access to information stored in Users' terminal equipment; (b) collects on behalf of the Client certain categories of personal data of Users through tags implemented on the Client's Media.
- 8.2. The Client undertakes to inform Users about and obtain necessary consents for storing of information or gaining access to information stored in terminal equipment of such Users by RTB House or its Affiliates in accordance with legislation implementing European Union Directive 2002/58/EC (as modified by Directive 2009/136/EC) or any laws that supersede such legislation as well as guidelines issued by competent regulatory bodies, before tracking technologies which require such storage or access are set or activated on Users' terminal equipment.
- 8.3. The Client undertakes to publish on its Client's Media a privacy policy that includes information about the use of RTB House technology on such Client's Media and a link to the RTB House Services Privacy Policy. RTB House undertakes to include in each Banner Creation displayed during performance of Services for the Client a direct link to RTB House Opt-Out page.
- 8.4. Any matters related to processing of personal data of Users in connection with performance of the Services, where the Client acts as data controller and RTB House as data processor (including liability for any unlawful or inappropriate handling of such personal data) will be governed exclusively by the provisions of the Data Processing Addendum, which constitutes **Appendix 1** to these Terms.

9. INDEMNITY & LIABILITY

- 9.1. Each party ("**Indemnifying Party**") shall on demand indemnify, hold harmless and defend the other Party, its Affiliates and their respective directors, employees and agents ("**Indemnified Party**") from and against all liabilities, costs, expenses, damages and losses suffered or incurred by the Indemnified Party arising out of or in connection with: (a) any claim brought against the Indemnified Party for actual or alleged infringement of any Applicable Laws and/or a third party's rights (including Intellectual Property Rights) arising out of or in connection with the receipt and/or use (in accordance with this Agreement) of any materials (including the Advertising Materials) supplied by the Indemnifying Party in connection with this Agreement; (b) any breach by the Indemnifying Party of any provisions of Section 8 (privacy).
- 9.2. Should the circumstances giving rise to liability under Section 9.1. occur (a "**Claim**"), the Indemnified Party will provide the Indemnifying Party with prompt written notification of such Claim, and will, without undue delay, provide the Indemnifying Party (at its own cost) with all necessary documents and information which could have an impact on the outcome of relevant proceedings as well as with cooperation and assistance in connection with such Claim. The Indemnifying Party shall have full control and authority to investigate,

defend and settle such Claim, provided that any settlement of such Claim requires prior consent of the Indemnified Party (which shall not be unreasonably withheld).

- 9.3. Nothing in these Terms of Service limits any liability which cannot legally be limited, including but not limited to liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation and any liability which cannot be legally limited or excluded.
- 9.4. Subject to Section 9.3. and except for the obligation to make payment of remuneration under the Agreement and breaches related to handling of Confidential Information, processing of personal data and infringements of Intellectual Property Rights in no event shall either Party's aggregate liability or indemnity arising out of or related to the Agreement for whatever cause, whether arising out of or related to breach of contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, exceed the total value of the amounts paid and payable to RTB House pursuant to the Agreement during the six (6) month period preceding the event giving rise to the Claim.
- 9.5. Subject to Section 9.3 neither Party shall be liable to the other Party for any loss or damage resulting from discontinuity in provision of the Services as a result of either Party's exercising its rights under Section 10.3. Subject to Section 9.3 RTB House shall not be liable for any loss or damage suffered by the Client resulting from: (a) discontinuity in provision of the Services as a result of RTB House's exercising its rights under Section 10.5; (b) any act or omission of the Client in breach of the provisions of this Agreement by the Client or any third party engaged by the Client in connection with the Services.
- 9.6. Subject to Section 9.3 neither Party shall have any liability towards the other Party for any: (a) consequential or indirect loss; (b) loss of profits; (c) loss of use of data; (d), loss of sales or business; (e) loss of agreements or contracts; (f) loss of anticipated savings; (g) loss of or damage to goodwill; (viii) and/or business interruption.
- 9.7. Neither Party will be liable for delay or default in the performance of its respective obligations under the Agreement if such delay or default is caused by a Force Majeure Event. Force Majeure Event means any circumstances not within a party's reasonable control, including, but not limited to, fire, flood, accident, earthquakes, telecommunications line failures, electrical outages or network failures.

10. TERMINATION OF THE AGREEMENT & SUSPENSION OF SERVICES

- 10.1. The term of the Agreement shall be defined in the Order.
- 10.2. Without affecting any other right or remedy available to it, each Party shall have the right to terminate the Agreement on not less than 30 (thirty) days' prior written notice without reason and at any time, by sending to the other Party their written notice by post or as a scan copy by e-mail.
- 10.3. Without affecting any other right or remedy available to it, each Party shall have the right to terminate the Agreement with immediate effect if the other Party: (a) commits a material breach of the provisions of the Agreement (in particular related to payment obligations), including the Data Protection Addendum, and (if such a breach is remediable) does not remedy the breach within 5 (five) Working Days from the receipt of the notice sent by the other Party electronically, (b) violates any Applicable Laws in a material way; (c) makes a general assignment for the benefit of creditors, is adjudicated bankrupt or becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment or composition or general assignment for the benefit of creditors, (d) has a receiver appointed to any of its assets or ceasing to carry on business; (e) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or (f) terminates the Data Processing Addendum.
- 10.4. The Agreement between the Parties shall be terminated automatically should the Client not start to use the Services within 180 (one hundred eighty) days of the conclusion of the Agreement or if the provision of Services has been suspended for any reason and have not been resumed for a period of 180 (one hundred eighty) days.
- 10.5. Without affecting any other right or remedy available to it RTB House shall be entitled to suspend the provision of Services with immediate effect if the Client fails to pay any amount due under the Agreement on the due date for payment and such payments are overdue for more than 10 (ten) Working Days or if the necessity to suspend provision of the Services results from the provisions of any Applicable Law, judicial

or administrative decision or any claims raised by third parties, in particular in relation to the Advertising Materials.

- 10.6. On expiry or termination of this Agreement for any reason, the Client shall pay to RTB House all outstanding unpaid and undisputed (in good faith only) invoices and interest, and, in respect of Services supplied but for which no invoice has been submitted, RTB House shall submit an invoice, which shall be payable by the Client in accordance with Section 6 and any payment terms specified in the relevant invoice.
- 10.7. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
- 10.8. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

11. FINAL PROVISIONS

- 11.1. The Parties undertake to make all reasonable endeavours to settle amicably any dispute arising out of or in connection with the Agreement.
- 11.2. Unless otherwise explicitly specified in the Agreement, the Parties may deliver any notice by e-mail, registered mail, personal delivery or renowned courier to the addresses or e-mail addresses indicated in the Order. Details of the parties for the purpose of notices are as outlined in the Order.
- 11.3. Should any of the provisions hereof be considered invalid or unenforceable by any court or administrative body, this will be without impact on the validity or enforceability of the remaining provisions of the Agreement. The invalid or unenforceable provision shall be replaced by another provision with the purpose equivalent or possibly the closest to the purpose of the invalid or unenforceable provision.
- 11.4. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.5. The Client shall not assign, transfer, mortgage, charge, subcontract, delegate or otherwise deal in any other manner with its obligation to pay the Compensation under this Agreement.
- 11.6. By placing Order, the Client acknowledges that it has become familiar with these Terms of Service and fully accepts its provisions.
- 11.7. Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.
- 11.8. Except as set out in these Terms of Service, no variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 11.9. This Agreement constitute the entire agreement between the Parties within the matter specified thereof which supersedes any and all other prior understandings between the Parties whether oral or written, expressed or implied. In case of any discrepancies between the Order and these Terms of Service, the Order shall take precedence.
- 11.10. If these Terms of Service have been made in various different language versions, in case of any discrepancies between the English version of Terms of Service and other language version, the English version shall prevail.
- 11.11. These Terms of Service, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

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