



**CONVERSAND  
GENERAL AFFILIATE AGREEMENT  
(„Agreement”)**

## **1. JOINING THE NETWORK**

1.1. By submitting an registration form, or by accessing the Interface, the Person named in the Application Form (the “Publisher”) is offering to participate in the Network, and market Advertisers and their Products, in accordance with the Agreement. By submitting an registration form, the Publisher is also agreeing to the terms of the other important terms and conditions mentioned in the Documentation.

1.2. The administrator of the Conversand system is Affluencer sp. z o.o. sp. k. incorporated in Poland 27 Stycznia 9, 34-120 Andrychów with company number 0000779028, tax ID: 6762563897 ("Affluencer").

1.4. On acceptance of the registration form by Affluencer, the data provided by the Publisher and this Agreement, including the applicable data processing annex(es), will together constitute a legally binding “Agreement” entered into by Affluencer and the Publisher.

1.5. The Publisher is the operator of a website, application or service (including email service), or is a Subnetwork. By entering this Agreement with Affluencer, the Publisher will join the Network to market Advertisers or their Products.

1.6. This Agreement prevails over any terms supplied by the Publisher.

1.7. Any individual contracting on his or her own behalf warrants that he or she is aged 18 or over. Any individual completing the Application Form on behalf of a proposed Publisher warrants that he or she has all necessary authority to bind that proposed Publisher.

## **2. DEFINITIONS**

2.1. The following definitions and rules of interpretation apply in this Agreement:

**Action** means a Sale, Lead, Click, Ad Impression, or other event, that has been specified as eligible for remuneration by the respective Advertiser under its Program Terms, on which commissions may be based under this Agreement;

**Ad Impression** means a display of an advertisement of an Advertiser by the Publisher, as reported by the Tracking Code only;

**Admin** means a single Authorized User with full access to, and control of, the Publisher Account and which is at all times authorized to act on behalf of the Publisher and bind the Publisher;

**Advertiser** means a Person which has agreed with Affluencer or an Affluencer Group Company to join the Network to be marketed, and/or to have its Products marketed;

**Advertiser Materials** means any trade marks, advertising content, images, text, video, data or other material provided by or on behalf of an Advertiser to Affluencer, the Publisher or a Subpublisher;

**Advertiser Program** means an ongoing affiliate marketing program of an Advertiser on the Network, for the promotion of the Advertiser or its Products in accordance with this Agreement and the Program Terms;

**Advertiser URLs** means, from time to time, any websites, apps or services of an Advertiser offering Products and to which the Publisher may link;

**Application Form** means the registration form at <https://ui.awin.com/publisher-signup> by which operators of websites, applications, technologies or services apply to participate in the Network;

**Approved Lead** means a Lead approved by an Advertiser in accordance with clause 5; “Approved Sale” means a Sale approved by an Advertiser in accordance with clause 5;

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

**Bonus** means an ad hoc payment to the Publisher by an Advertiser in return for a specific promotion or other marketing activity;

**Business Day** means a day other than a Saturday, Sunday or national public holiday;

**Click** means the intentional and voluntary following of a Link by a Visitor as part of marketing services as reported by the Tracking Code only;

**Commission** means the amount payable to the Publisher in return for marketing an Advertiser and its Products, in accordance with that Advertiser’s Program Terms, and subject to any agreement for the sharing of such amounts with third parties;

**Confidential Information** means any information disclosed by or relating to a party, including: information arising during the Term of this Agreement; information about a party’s business affairs; information about a party’s operations, products or trade secrets; information about a party’s technology (including any know-how and source code) and any derivatives of any part of any of them and which (i) is marked or identified

as confidential; or (ii) would be regarded as confidential by a reasonable business person;

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

**CPC** means a Commission earned per valid Click;

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

**CPM** means a Commission earned per one thousand Ad Impressions;

**Data Regulation** means any applicable data protection, privacy or similar laws that apply to data processed in connection with this Agreement, including the GDPR or ePrivacy and for US citizens, FTC Guidance, US state and federal legislation relating to data privacy and security;

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

**ePrivacy** means the Privacy and Electronic Communications Directive 2002/58 (including any replacing or superseding legislation);

**FTC Guidance** means the published cases and guidelines from the United States Federal Trade Commission, including without limitation the guidance on substantiation of claims, privacy, data security, native advertising and disclosure guidance for influencers and spokespeople.

**GDPR** means the EU General Data Protection Regulation 2016/679;

**Intellectual Property Rights** means all copyrights and related rights, patents rights to inventions, utility models trademarks, service marks, trade, business and domain names, rights in trade dress or get -up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights (including any database rights in the Network), topography rights, moral rights, rights in confidential information (including know- how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Interface** means the intranet and software platform operated by Affluencer, and any functionality or datafeeds accessed or made available through such platform;

**Lead** means a 'sales lead' of an Advertiser generated in the Tracking Period, as reported by the Tracking Code only;

**Link** means a hyperlink from a Promotional Space to an Advertiser URL;

**Network** means the marketing network of publishers and Advertisers operated by Affluencer and its Group Companies to facilitate, amongst other things, affiliate and performance marketing;

**Network Fee** means the fee payable to Affluencer or an Affluencer Group Company, calculated as an override fee of an amount equal to a specified percentage of any total Commissions and Bonuses due, or on such other basis as may be agreed by Affluencer and an Advertiser;

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

**Program Terms** means any terms and conditions, or other requirements applied by an Advertiser to the participation in its Advertiser Program;

**Promotional Space** means any advertising inventory appearing on the Publisher Service, or means of delivering Advertiser Materials enabled by the Publisher Service;

**Publisher Account** means the respective account of the Publisher on the Interface;

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

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

**Subnetwork** means the operator of a marketing network of further publishers to facilitate, amongst other things, affiliate and performance marketing, which has entered this Agreement to join the Network to market Advertisers or their products as a publisher;

**Suspension** means the suspension by Affluencer or any Affluencer Group Company of the Publisher's participation in the Network for a period of time, including the following: (i) preventing the Publisher from accessing the Interface; (ii) withholding payments otherwise due to the Publisher; (iii) ceasing to track Actions; (iv) removing any Advertiser Materials from the Publisher Service and "Suspend" shall be interpreted accordingly;

**Term** means the term of this Agreement from the Effective Date until its termination or expiry in accordance with clause 14 or 17.5;

**Tracking Code** means the Affluencer software code (from time to time) for the recording of, amongst other things, web traffic and Actions;

**Tracking Period** means the period of time in which the Actions of a Visitor are attributed to the Publisher and, subject to the Program Terms, generate Commissions for the Publisher;

**Validation Period** means the period of time during which Advertisers may approve or decline Sales and Leads; and

**Visitor** means any Person who follows a Link.

2.2. In this Agreement:

- a. any meanings given to terms in the attached registration form shall apply to this Agreement;
- b. "include" or "including" is without limitation;
- c. the singular will include reference to the plural and vice versa;
- d. a "Person" includes an individual, company, partnership or unincorporated association;
- e. a statute, order, regulation or other similar instrument will include any amendments to it or replacements of it; and
- f. "writing" and "written" includes emails but not faxes.

2.3. If there is a conflict between the any part of the specific Documentation and the Agreement, the Documentation part shall prevail.

### **3. USE OF THE INTERFACE**

3.1. Subject to the Publisher's compliance with this Agreement, Affluencer will:

- a. permit the Publisher's participation in the Network for its assignment of the Promotional Space; and
- b. grant the Publisher access to the Interface.

3.2. Affluencer may change any aspect of the Interface at its sole discretion.

3.3. On the Effective Date, the Publisher shall:

- a. register a Publisher Account; and
- b. nominate an Authorized User as Admin of that Publisher Account.

3.4. Each Publisher Account may have only one Admin and must have an Admin at all times. Each Publisher Account may have a reasonable number of Authorized Users.

3.5. The Publisher undertakes that:

- a. the Admin shall remain authorized to act on behalf of the Publisher and bind the Publisher;
- b. it shall use best endeavors to ensure that the Admin and all Authorized Users shall:
  - i. access the Interface in their own name under their own Authorized User Account; and
  - ii. keep any passwords confidential.

3.6. The Publisher shall:

- a. ensure the proper functioning and maintenance of all Links;
- b. provide Advertisers and Affluencer with full and clear instructions as to the Advertiser Material it may reasonably require for the purposes of the promotion of an Advertiser or its Products in accordance with this Agreement and the Program Terms;
- c. provide Advertisers reasonable access to information the Advertiser may require to operate the Advertiser Program; and
- d. remain primarily liable for the acts and omissions which he or the entities working with him proceeds during the entire cooperation.

3.7. Affluencer shall not be liable for any losses or damages suffered by the Publisher due to the disclosure of any Authorized User Account passwords.

3.8. The Publisher shall remain primarily responsible and liable for all activities occurring within the Conversand.

3.9. If the Publisher suspects that a third party has gained unauthorized access to access data, the Publisher shall inform Affluencer immediately by sending an e-mail to mail@conversand.com or such other e-mail as may be notified to the Publisher from time to time.

3.10. Under this Agreement, Affluencer AG or any other Affluencer Group Company may, on behalf of Affluencer:

- a. provide any aspect of the Network or the Interface (including the granting of sublicenses and licenses under clause 10);
- b. enjoy any benefit, or exercise any right;
- c. satisfy any of Affluencer's obligations.

#### **4. MARKETING**

4.1. The Publisher may request to market Advertisers or their Products at their discretion. The Publisher may only market an Advertiser or its Products under this Agreement with the Advertiser's continued approval, unless specifically enabled by the proper use of the Interface.

4.2. At any given moment the Publisher is the party fully responsible for the marketing actions that he undertakes during the promotion.

4.3. The publisher has the status of a professional entity during the cooperation ruled by this Agreement. The publisher doesn't have the consumer status on any phase of the cooperation.

4.4. Advertisers may apply Program Terms and make changes to any Program Terms at their discretion, which shall become effective on notice to the Publisher, including by publication on the Interface. Advertisers may change their Program Terms at any time. The Publisher is solely responsible for ensuring it is aware of any changes to the Program Terms.

4.5. Subject to the Publisher's compliance with this Agreement and the Program Terms, and the continued approval of the respective Advertiser, Affluencer will provide to the Publisher the Advertiser Materials.

4.6. Affluencer, however, is not obliged to review any Advertiser Material or check their legality or accuracy. A Publisher admitted to the Advertiser Program may publish the Advertiser Materials through its Publisher Service at its discretion and use them solely to the extent permitted under this Agreement and the Program Terms.

4.7. Affluencer may deactivate any Links on request of the respective Advertiser, or at its sole discretion.

4.8. The Publisher shall remove any Advertiser Materials from the Publisher Service immediately on request of either the Advertiser or Affluencer.

4.9. Affluencer will use reasonable endeavors to procure that Advertisers comply with any terms and conditions, or other requirements, applied by the Publisher to its promotion of Advertisers or their Products.

## **5. TRACKING AND VALIDATION**

5.1. The Tracking Code and Program Terms will be the sole bases for recording and determining Actions and Commissions and for tracking. No other means of recording or determining Actions or Commissions shall be used under this Agreement, notwithstanding any agreement or arrangement between the Publisher and any Advertiser to the contrary.

5.2. Sales and Leads will only be attributed to the Publisher where the Tracking Code records that the Publisher was responsible for the most recent referral of the Visitor to the Advertiser URL prior to that Sale or Lead, unless expressly agreed otherwise between the parties or specified otherwise by the Advertiser in the respective Program Terms, and in each case subject to any communicated “cookie hierarchy” or “commission hierarchy”.

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

## **6. ACTIONS, COMMISSIONS AND BONUSES**

6.1. The amount of any Commissions is as may be displayed on the Interface. CPA Commissions in respect of Approved Sales will be determined as either:

- a. a percentage of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface; or
- b. a fixed amount, irrespective of the purchase price of the Product(s) subject of the Approved Sale, as set out on the Interface.

6.2. Advertisers may change the amount of Commission offered on notice to Publishers. Affluencer will use reasonable endeavors to procure that Advertiser’s reductions of the amount of Commissions offered shall take effect seven days after notification.

6.3. Bonuses may be agreed by the Publisher and Advertisers at their discretion and must be processed via the Interface.

6.4. Commissions and Bonuses shall only be due for invoicing and payment:

- a. on receipt by Affluencer of the corresponding payment in respect of that Action from the Advertiser; and
- b. in respect of Actions procured in accordance with this Agreement and any applicable Program Terms.

6.5. Without prejudice to any other rights or remedies of Affluencer, if Affluencer reasonably suspects that any Commissions paid under this Agreement have been generated in breach of this Agreement, Affluencer may set off or deduct the amount of such Commissions from any future payments due to the Publisher or from any funds held to the Publisher's account from time to time (whether under this Agreement or any other agreement between Affluencer and the Publisher). Such deduction shall constitute a genuine pre-estimation of the loss suffered by Affluencer as a result of the payment of such Commission in breach of this Agreement.

## **7. INVOICING AND PAYMENTS**

7.1. Affluencer will pay the Publisher:

- a. Commissions in respect of each Approved Sale, Approved Lead, Clicks or one thousand Ad Impressions; and
- b. Bonuses agreed between the Publisher and Advertisers.

7.2. Payment of Commissions and Bonuses may be subject to any Advertiser Terms.

7.3. Invoices for Commissions and Bonuses can be accessed by the Publisher via the Interface. Billing will be implemented as follows:

- a. the Publisher agrees not to issue invoices for any Commissions and Bonuses generated under this Agreement;
- b. Affluencer may provide a copy of this Agreement to HM Revenue & Customs (or equivalent local tax authority) in order to evidence the self-billing arrangements between Affluencer and the Publisher;
- c. the Publisher will immediately notify Affluencer if it transfers any part of its business as a going concern;
- d. the Publisher will immediately update the Interface accordingly if it:
  - i. stops being registered for VAT; or
  - ii. changes VAT number, regardless of the reason;
- e. Affluencer may engage third party service providers to administer the issuing of self-billing invoices under this Agreement.

7.4. Affluencer will pay all self-billed invoices subject to:

- a. any minimum payment thresholds implemented by Affluencer from time to time being satisfied;
- b. the correct, accurate and complete bank and tax information of the Publisher being shown on the Interface;
- c. the provision of any additional information reasonably requested by Affluencer in respect of the Publisher's location or residence;
- d. the payment not being subject to any internal audits or 'network quality' reviews from time to time.

7.5. All payments will be made to the bank account nominated by the Publisher in the 'Payment Details' section of the respective Publisher Account on the Interface. Affluencer is not obligated



to take steps to verify the accuracy of bank account information provided by the Publisher. Updates to bank account information may take up to two Business Days to take effect.

7.6. All sums payable under this Agreement shall be exclusive of VAT which, if applicable, shall be added at the appropriate rate. VAT shall be paid by the Party liable to pay VAT pursuant to applicable law. If payments under this Agreement are subject to withholding tax, Affluencer is entitled to deduct the appropriate amount from payments to the Publisher. The parties agree to work together on reducing any withholding tax, and, upon request, shall provide documents required for any reduction, exemption, reimbursement or deduction of withholding tax.

7.7. All costs occurred in connection with currency exchange will be the costs that the Publisher pays.

7.8. The Publisher will immediately repay any amounts paid to the Publisher in error, or other than in accordance with the Publisher's rights under this Agreement.

7.9. Any underpaid Commission or Bonuses must be notified to Affluencer immediately. Subject to clause 6.4, any underpaid Commission or Bonuses notified by the Publisher to Affluencer within 12 months of the underpayment will be rectified. The Publisher hereby waives its right to recover any underpaid Commissions or Bonuses that the Publisher fails to report to Affluencer within 12 months of the underpayment.

## **8. PUBLISHER'S RELATIONSHIP WITH ADVERTISERS**

8.1. The Publisher's participation in the Network does not create any contract between the Publisher and any Advertiser.

8.2. During the term of this agreement the Publisher will not, directly or indirectly, enter or attempt to enter into any agreement, understanding or other form of arrangement (whether express or implied) with any Advertiser where payments are made to the Publisher in respect of any marketing services (including but not limited to affiliate, display, programmatic, search, email and click-to-call marketing) other than under this Agreement, without Affluencer's prior written approval.

## **9. WARRANTIES AND INDEMNITY**

9.1. Each party warrants and undertakes to the other for the Term that:

- a. it has full power and authority to enter into this Agreement;
- b. it holds all licenses and approvals necessary for the performance of its obligations under this Agreement;
- c. it will perform its obligations under this Agreement in accordance with all applicable laws and using reasonable skill and care; and
- d. it will not make any false, misleading or disparaging representations or statements regarding the other party.

9.2. The Publisher warrants and undertakes to Affluencer for the Term that:

- a. neither the Publisher, nor any of its officers or shareholders, have previously been party to an agreement terminated by Affluencer for breach;
- b. no officer or shareholder of the Publisher has been an officer or shareholder of a company (or other entity) party to an agreement terminated by Affluencer for breach;
- c. all information about the Publisher set out in the Application Form or on the Interface is complete, true, accurate, not misleading and will be kept up to date;
- d. its marketing of any Advertiser or its Products will comply with all Advertising Standards and Data Regulation;
- e. the Publisher Service will be operated in accordance with all applicable laws (including Advertising Standards and Data Regulation);
- f. it shall comply with all relevant tax laws;
- g. it shall retain ultimate control of the operation of the Publisher Service;
- h. it shall not use the Interface other than in accordance with the terms of the licenses granted under clause 10, nor use the Interface or any part of it to build a product or service which competes with the Interface or any part of it;
- i. it is the owner or valid licensee of any Intellectual Property Rights appearing on the Publisher Service, and that no part of the Publisher Service infringes the rights of any third party; and
- j. all Advertiser Materials will be accurately and faithfully reproduced.

9.3. The Publisher will indemnify, defend and hold harmless Affluencer (including its directors, employees, agents or contractors), from and against any claims, costs, damages, losses, liabilities and expenses (including legal fees) relating to any claims, actions, suits or proceedings by third parties against Affluencer arising out of or related in any way to any breach by the Publisher of any of the warranties at clauses 9.1 and 9.2.

## **10. INTELLECTUAL PROPERTY**

10.1. Affluencer hereby grants to the Publisher, for the duration of its participation in the Advertiser Program, a revocable, non-exclusive, non-transferable, royalty-free, worldwide sublicense to publish Advertiser Materials, without modification, on the Publisher Service in the Promotional Spaces to the extent necessary to enable the Publisher to market the respective Advertiser and its Products on the Network in compliance with the Agreement and the Program Terms.

10.2. A sublicense granted to a Subnetwork under clause 10.1 shall be further sub- licensable by the Subnetwork on terms equivalent to clause 10.1, with Affluencer's prior written consent.

10.3. A sublicense granted by a Subnetwork under clause 10.2 shall not be capable of further sublicense by the Subpublisher without Affluencer's prior written consent.

10.4. Affluencer hereby grants to the Publisher a revocable, non-exclusive, non-sub- licensable, non-transferable, royalty-free, worldwide license to use the Interface to the extent necessary for the Publisher to participate in the Network and perform its obligations under this Agreement.

10.5. The Publisher will not, and will not attempt to, change, reverse engineer or create derivative works of the Interface or the Tracking Code.

10.6. Each party reserves all of its right, title and interest to any of its Intellectual Property Rights licensed under this clause 10, or which it creates under this Agreement or which is created by operation of the Tracking Code.

10.7. The Publisher shall use information and data obtained from and in connection with participating in the Network only for the purpose of this Agreement. Uses for any other purpose, or disclosure of such information and data are prohibited.

10.8. Either party may identify the other party in lists of clients or customers, and may use the other party's name and logo in marketing materials and presentations. Any other use shall require the prior written consent of the other party.

10.9. The Publisher shall make available to Affluencer all requested information in respect of its use of the Interface, including, on at least 30 days prior written notice and during normal business hours, permitting Affluencer or any relevant licensor of Affluencer, or any of their auditors or advisors, to attend the Publisher's premises in order to inspect the Publisher's systems and records to the extent determined by Affluencer or any relevant licensor to be necessary to demonstrate the Publisher's use of the Interface complies with the terms of this Agreement.

## **11. CONFIDENTIALITY**

11.1. Each party will only use Confidential Information to enjoy its rights or comply with its obligations under this Agreement. Save as set out in this Agreement, neither party will disclose any Confidential Information. Confidential Information shall be kept confidential.

11.2. The obligations of confidentiality in this Agreement will not apply to Confidential Information to the extent it:

- a. is in the public domain (other than as a result of a breach of this Agreement);
- b. can be demonstrated as having been independently developed by the receiving party;
- c. is published on the Interface in the implementation of and in accordance with this Agreement;
- d. is required to be disclosed by law or a court order.

11.3. This clause will survive termination for five years.

## **12. DATA PROTECTION AND COOKIES**

Affluencer and the Publisher will comply with their respective obligations under Data Regulation and in accordance with the applicable data processing annex(es) to these Standard Terms.

## **13. LIMITATION OF LIABILITY**

13.1. This clause sets out the entire liability of Affluencer and its vicarious agents under or in connection with the Agreement. Claims for damages shall be excluded unless otherwise specified in this clause.

13.2. Affluencer will not be liable for any losses of the Publisher if Affluencer's compliance with the Agreement is prevented by the acts or omissions of the Publisher.

13.3. Nothing in this Agreement limits or excludes the liability of Affluencer in the event of culpable injury to life, limb or health, fraud, fraudulent misrepresentation or fraudulent misstatement or for mandatory statutory liability.

13.4. Affluencer will not be liable to the Publisher for: loss of profit, business, goodwill, anticipated savings, goods, contract, use or data; losses arising from the acts or omissions of an Advertiser; or for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

13.5. Except as expressly stated otherwise in this Agreement, all warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.

13.6. The total liability of Affluencer in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the Agreement will be limited to the amount of Network Fee actually received by Affluencer from Advertisers in respect of Commissions paid to the Publisher in the 12 month period preceding the date on which the claim arose.

13.7. Network, the Interface, the Tracking Code, their use and the results of such use are provided "as is" to the fullest extent permitted by law. Affluencer disclaims all express or implied warranties, including warranties of satisfactory quality and fitness for a particular purpose, which may be implied in respect of the Network, the Interface, the Tracking Code, their use and the results of such use. The performance of the Network, the Tracking Code and the Interface relies on third parties beyond Affluencer's control, and in particular, the maintenance by Advertisers of the proper integration of the Tracking Code into Advertiser URLs. Affluencer specifically disclaims any warranty:

- a. that the use or operation of the Network, the Interface or the Tracking Code will be uninterrupted or error-free;
- b. that the Tracking Code will be properly integrated into the Advertiser URLs;
- c. that the Tracking Code accurately records Actions at all times;

- d. in respect of the Advertiser Materials, including any warranty that the Advertiser Materials comply with Advertising Standards;
- e. that defects will be corrected;
- f. that the Network, the Interface or the Tracking Code are free of viruses or malicious code;
- g. that any security methods employed will be sufficient;
- h. in respect of any Advertiser or its technology and any third party or its technology; and
- i. regarding correctness, accuracy, or reliability.

## **14. TERMINATION AND SUSPENSION**

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

14.2. Either party may terminate the Agreement on 30 days' written notice to the other party for any reason.

14.3. Without prejudice to its other rights or remedies, a party may terminate the Agreement immediately on written notice to the other party, if:

- a. the other party materially breaches this Agreement;
- b. the other party is deemed unable to pay its debts; steps are made to wind up, or appoint an administrator over, the other party; a third party becomes entitled to appoint a receiver over the assets of the other party; the other party negotiates with all or a class of its creditors, or proposes or enters a compromise with such creditors; or any similar or analogous event occurs.

14.4. Affluencer may terminate this Agreement or Suspend the Publisher, immediately on written notice, if the Publisher:

- a. does not access the Publisher Account for a period of six months or if no Commissions have been generated for a period of six months;
- b. is reasonably suspected by Affluencer to have breached any:
  - i. of the warranties at clauses 9.1 and 9.2;
  - ii. Program Terms of an Advertiser.

14.5. Affluencer may terminate this Agreement, immediately on written notice, if the Publisher undergoes a significant change of the entities who are able to control the Publisher.

## **15. CONSEQUENCES OF TERMINATION AND SUSPENSION**

15.1. During any period of Suspension:

- a. the Publisher is not permitted to access the Interface;
- b. all licenses will be Suspended and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;

- c. Affluencer may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able); and
- d. no payments will be made to the Publisher.

15.2. On termination of the Agreement:

- a. all licenses will terminate and the Publisher shall immediately remove any Advertiser Materials from the Publisher Service;
- b. Affluencer may deactivate any Links and remove any Advertiser Materials from the Publisher Service (to the extent it is able);
- c. each party will return or at the other party's option destroy all confidential information in its possession within five Business Days; and
- d. unless terminated by Affluencer under clauses 14.3 or 14.4, Affluencer will pay all outstanding Commissions and Bonuses due to the Publisher;
- e. by Affluencer under clauses 14.3 or 14.4 all unpaid Commissions as of the date of termination, or accruing after the date of termination, shall be forfeited to Affluencer irrevocably and the Publisher hereby waives any right or entitlement to recover such Commissions and Bonuses from Affluencer.

15.3. Termination of this Agreement will not affect any existing rights or remedies.

15.4. Clauses 1, 2, 5, 6, 7, 10.5, 10.6, 11, 12, 13, 15, 16 and 17 will survive termination of the Agreement.

## **16. NOTICES**

16.1. Notices given under this Agreement will be in writing and:

- a. displayed by Affluencer on the Interface;
- b. delivered by the Publisher by hand or sent by pre-paid first-class post or recorded delivery post to Affluencer at Affluencer's registered office;
- c. delivered by Affluencer by hand or sent by pre-paid first-class post or recorded delivery post to the Publisher at its notice address set out in the Application Form (or such other address as may be set out on the Publisher Account); or
- d. sent by Affluencer by email to the Publisher's notice email address set out in the Application Form (or such other notice email address as may be set out on the Publisher Account).

16.2. A notice displayed by Affluencer on the Interface will be deemed to have been received at the time of its display (or if displayed outside business hours, at 9 am on the first Business Day following display). A notice delivered by hand will be deemed to have been received when delivered (or if delivered outside business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post will be deemed to have been received two Business Days after posting. A notice sent by email will be deemed to have been received at the time of transmission as shown by the sender's records (or if sent outside business hours, at 9 am on the first Business Day following dispatch).

## **17. GENERAL**

17.1. Affluencer may change the terms of this Agreement on 14 days' notice to the Publisher.

17.2. Certain functionalities or services offered by Affluencer or third parties may be subject to additional terms. Such terms will be communicated to the Publisher before those functionalities or services are supplied, including by displaying on the Interface.

17.3. Affluencer may set off any liability of the Publisher against any liability of Affluencer.

17.4. Time for performance of clauses 3.9, 4.6, 7.4.c, 7.4.d, 7.9, 15.1.a and 15.2.a are of the essence of this Agreement.

17.5. No party will be liable for any breach of this Agreement arising from circumstances beyond its reasonable control (a "Force Majeure Event"). If a Force Majeure Event continues for six months, the unaffected party may terminate this Agreement by giving 30 days' written notice to the other party.

17.6. The Publisher may not assign or subcontract its rights or obligations under this Agreement in whole or part without Affluencer's prior written consent. Affluencer may assign or subcontract its rights or obligations under this Agreement, including to an Affluencer Group Company.

17.7. Nothing in the Agreement constitutes a partnership or joint venture between the parties, nor constitutes a party the agent of the other. No party has authority to bind the other.

17.8. A Person who is not a party to this Agreement will not have any statutory rights under or in connection with it.

17.9. A counterpart of this Agreement executed and/or transmitted electronically shall be treated as fully binding and with full legal force and effect.

17.10. This Agreement constitutes the entire agreement between the parties relating to its subject matter, to the exclusion of the United Nations Convention on Contracts for International Sale of Goods.

17.11. This Agreement is governed by the law of Poland and the courts of Poland have exclusive jurisdiction.

17.12. The Publisher is aware that this Agreement is originally drawn up in English. The Publisher is aware of and accepts that, in the event of any inconsistencies or differences of interpretation between the English version and a translated version, this English version shall always prevail.