

# STANDARD ENGAGE TERMS

The following standard partner distribution terms ("**Terms**") govern the implementation and use of the products, services, and technology made available by Outbrain to the Partner identified in a Partner Distribution Agreement.

## 1. CERTAIN DEFINITIONS

- a. "Content" means graphical, textual and/or auditory content (which may include text, data, information, photos, images, graphics, audio, video or other content).
- b. "Content Recommendations" means links to Content that Outbrain determines are relevant to the viewer of a web page on which the Service is displayed.
- c. "Destination Page" means any webpage or other online location that may be accessed by clicking on Content Recommendations displayed through the Service.
- d. "Promoted Content" means Content Recommendations which generate Promotional Revenue.
- e. "Promotional Revenue" means revenue collected by Outbrain from Outbrain customers that have paid for the distribution of Promoted Content.
- f. "Partner Sites" means the properties and pages identified in the Partner Distribution Agreement, together with any additional properties on which Partner elects to implement the Service upon written approval from Outbrain (email will suffice).
- g. "Service" means the user interface provided by Outbrain that displays Content Recommendations to website users and permits users to navigate to Destination Pages by clicking on such Content Recommendations.
- h. "Technology" means the Javascript, API, SDK and associated protocols provided by Outbrain to Partner that, when implemented on a Partner Site, manage the Service and display it when appropriate.

## 2. SERVICE; PLACEMENT AND APPEARANCE

- a. Partner will implement the Service directly below the main Content on each page of the Partner Sites on which the Services are installed or as otherwise mutually agreed.
- b. Partner will clearly and conspicuously identify or label the Service (including Content Recommendations and Promoted Content) in accordance with all applicable laws and

regulations, including with respect to disclosing the source or nature of the Content Recommendations or Promoted Content. Without limiting the foregoing obligation, Partner agrees to comply with Outbrain's instructions regarding how the Service, Content Recommendations, and Promoted Content are to be displayed, labeled or identified.

- c. Outbrain may make updates, modifications or improvements to the Technology or Service from time to time in its sole discretion. If Outbrain requests Partner to implement any such update, Partner will, at Partner's election, either implement the updates in a timely manner in accordance with Outbrain's reasonable instructions, or cease using the Service.
- d. During the Term, Outbrain shall be Partner's sole and exclusive provider of content recommendations, where "content recommendations" are one or more links comprised of a headline or phrase indicating that an end user will be driven to content (regardless of whether the destination page displays content, advertorials or advertisements).
- e. Notwithstanding any other provision of this Agreement, Partner may not display Content Recommendations without at least one (1) link to Promoted Content on any page without Outbrain's prior written consent.

### 3. REVENUE & PAYMENT

- a. Revenue. During the Term, Partner will be paid the percentage of Adjusted Gross Revenue indicated on the Partner Distribution Agreement.
- b. Payment Terms. Within ninety (90) days of the end of the calendar month during which Outbrain collects any Promotional Revenue.
- c. Outbrain will pay to Partner its share of the Adjusted Gross Revenue as specified in this Agreement. VAT if applicable will only be paid against a valid VAT invoice. The VAT registration number for Outbrain UK Ltd is GB 115005961. If the amount owed to Partner is less than £200, then the amount owed will be accrued until the calendar month in which the balance of the payments due to Partner exceeds £200. Such payments shall be subject to withholding for income taxes and similar deductions, as required by applicable law. Any dispute regarding a payment from Outbrain must be submitted to Outbrain in writing within sixty (60) days of the date on which the amounts are available to the Partner in the Outbrain dashboard.
- d. Outbrain may withhold charge or credit back payments to Partner, if Outbrain, in its sole reasonable discretion, believes that the performance related to them are fraudulent or invalid in nature or if Outbrain was charged or credited back in their respect by the Outbrain customer. During each month, Outbrain shall provide Partner with reports that may include estimates of revenue earned by Partner, but for the avoidance of doubt, Outbrain does not guarantee that these estimated amounts so displayed during a calendar month, if any, shall be precise or definitively due to be paid to Partner as a

result of this Agreement.

- e. Nothing in this Agreement shall be construed as a promise of any sort of minimum traffic volumes, clicks or usage or any other such commitments by Outbrain to Partner.
- f. No portion of the Promotional Revenue shall be payable to Partner with respect to any activity prior to the full execution of the Partner Distribution Agreement.

#### 4. PRIVACY

- a. Outbrain and Partner shall each maintain and display on their respective websites a privacy policy that complies with all applicable laws, and with respect to Partner, that explains how data is collected and used in connection with the Partner Sites.
- b. Outbrain's current privacy policy is available at <http://www.outbrain.com/legal/privacy>.
- c. Partner shall implement the Technology and the Service in accordance with all of Outbrain's reasonable instructions determined by Outbrain to be necessary to enable Outbrain to comply with applicable data protection laws. Partner acknowledges and agrees that it is Partner's (and not Outbrain's) responsibility to ensure that Partner's use of the Technology and the Service complies with all data protection legislation applicable to Partner (including, in particular, in respect of the placing and use of third party cookies, upon which the Outbrain Services relies, and the capturing of any consent to cookies required to be obtained from the relevant end user).
- d. Partner acknowledges that users of the Service may elect to register for Outbrain and that such registration may result in collection of personally identifiable information provided by the users.

#### 5. LICENSE TERMS.

- a. During the Term and subject to Partner's full compliance with all of the terms of the Agreement, Outbrain grants Partner a limited, non-exclusive, revocable, non-sublicensable, nontransferable licence to display the Service and Content Recommendations on the Partner Sites in the form and format provided through the Service, to use the Technology to display the Content Recommendations. If Partner has been granted use of the Outbrain API or SDK, Partner shall use the Outbrain API or SDK in accordance with the Outbrain applicable implementation guide made available by Outbrain from time to time, which may be revised from time to time upon notice from Outbrain.
- b. Outbrain grants Partner, during the Term, a limited, worldwide, non-exclusive, royalty-free licence to use and display Outbrain's trademarks, service marks and logos (collectively, "**Outbrain Marks**"), as incorporated into the Service, strictly in accordance with Partner's obligations and rights in this Agreement. All goodwill arising out of Partner's use of any of the Outbrain Marks shall inure solely to the benefit of Outbrain. Outbrain shall have the right to refer to Partner and the Partner Sites in any general

listing of customers or partners (including in marketing and sales materials) who have implemented the Service. Notwithstanding the foregoing, each party will request prior written consent before issuing a press release regarding this Agreement or using the other party's name on its website other than in accordance with this Agreement.

- c. As between the parties: (a) Outbrain retains all right, title and interest in and to the Outbrain Marks, Service, Technology, Data, and Content displayed on or made available through the Service (excluding any Content from the Partner Sites which shall be owned by Partner); and (b) Partner retains all right, title and interest in and to the Partner Site(s) including the look and feel, excluding the items described in subparagraph (a) above, (including without limitation all Intellectual Property Rights in them).
- d. The licences granted under this Agreement are specifically set forth in this Agreement; there are no implied rights. All rights not expressly granted to Partner in this Agreement are reserved by Outbrain.

## **6. PROHIBITED ACTIVITY.**

- a. Partner will not: edit, modify, truncate, filter or change the order of Content Recommendations displayed in or through the Service, except to the extent authorised by the Outbrain API or SDK implementation guides for Partners who Outbrain has authorised to use the Outbrain APIs; obscure, modify or redirect Partner Site users away from a Destination Page, or intersperse any Content between the Service and any Destination Page; minimise, remove or otherwise inhibit the full and complete display of the Service; artificially inflate clicks on Content Recommendations or Promoted Content, or encourage or require any person to click on Content Recommendations or Promoted Content using incentives or other methods that are fraudulent; remove, deface, obscure, or alter any notices of Intellectual Property Rights included in the Service; access, reproduce or use the Service in any manner or for any purpose other than as expressly permitted under this Agreement; modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Technology or the Service, or attempt to create a substitute or similar service or product through use of or access to Technology or the Service or related proprietary information ; attempt to interfere with or disrupt the Service or attempt to gain access to any systems or networks that connect to it other than through the Technology as implemented pursuant to this Agreement; copy, cache, distribute, display, alter, or otherwise use any Content Recommendations or Promoted Content transmitted via the Service (or authorise or assist any third party to do so) except as such Content Recommendations and Promoted Content are provided through the Service; or use the Technology for any purpose not authorised by Outbrain, including with respect to the API, for any purpose that is inconsistent with the API Implementation Guide as provided to Partner.
- b. Partner will not deploy the Service on any properties that displays adult, obscene,

pornographic, defamatory, libelous, infringing, abusive, or illegal Content, that promotes hate or discrimination, facilitates the sale of firearms or illegal drugs, or that participates or encourages participation in, illegal activities. Outbrain reserves the right in its sole discretion to disable the Service on any property at any time.

- c. Except as expressly and unambiguously authorised under this Agreement, Partner will not copy, rent, lease, sell, transfer, assign, sublicense, disassemble, reverse engineer or decompile (except to the limited extent expressly authorised by applicable statutory law), modify or alter any part of the Service, Technology or otherwise use the Service or Technology on behalf of or for the benefit of any third party.

7. **REGISTRATION.** Partner is not required to register on the Outbrain website to use the Service. If Partner registers, it will have access to online reports and the Outbrain Dashboard, which allows Partner to control certain settings for the Service, including the Content Recommendation functionality. To the extent that Partner registers and has access to the Outbrain dashboard, Partner will be solely responsible for all changes for the applicable changes made through the Outbrain dashboard. Access to Outbrain dashboard shall be solely at the discretion of Outbrain and may be discontinued by Outbrain at any time.

8. **SUSPENSION OF SERVICE; TERMINATION.**

- a. Outbrain may suspend or discontinue all or any aspect of the Service, including its availability, at any time if required by exigent circumstances such as a significant security breach, propagation of malware or other viruses to users, etc... provided, that Outbrain will not do so with respect to Partner unless Outbrain does so with respect to similarly situated licensees.
- b. Either party may terminate this Agreement at any time in the event of a material breach by the other party of any provision of the Agreement that remains uncured fifteen (15) days after the breaching party's receipt of written notice of the breach.
- c. Outbrain may suspend Partner's access to the Service or terminate the Term at any time for any improper, unlawful or otherwise fraudulent use of the Technology or Service if Partner does not cure such use within three (3) days after notice from Outbrain or if Partner does not implement updates pursuant to Section c above.

9. **LIMITED WARRANTIES; INDEMNITY**

- a. Each party represents and warrants to the other that: (a) it has all right, power, and authority necessary to enter into this Agreement and perform its obligations under it; (b) it will comply with all applicable laws, regulations and orders in its performance of this Agreement.
- b. Outbrain warrants that the Technology as provided and made available by Outbrain and implemented by Partner in accordance with this Agreement do not and will not, to the best of Outbrain's knowledge infringe any Intellectual Property Right of any third

party.

- c. Partner represents and warrants that the Partner Site(s) will not contain any Content that is: (i) illegal; (ii) infringes any Intellectual Property Right of any third party; or (iii) is obscene, defamatory, libelous, slanderous material or material that violates any person's right of publicity, privacy or personality.
- d. Except as expressly provided in this Agreement, neither party makes any representations or warranties, express or implied in relation to this Agreement, the Partner Sites, the Service, the Technology any Content made available by Outbrain through the Service or any other matters (including any implied terms relating to satisfactory quality or fitness for any purpose, any warranties of availability or uninterrupted or error free performance, any warranties arising out of any course of performance or dealing).
- e. Outbrain makes no representations concerning any Content contained in or accessed via the Service, including without limitation Promoted Content, and Outbrain will not be responsible or liable for the contents, accuracy, intellectual property infringement, legality or decency of Content provided through the Service or for Partner's reliance on any of the foregoing.
- f. Each party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other party and its parent and affiliates, and each of its and their respective affiliates, directors, officers, shareholders, members, authorised representatives, employees and agents (collectively, the "**Indemnified Party**") from and against any and all claims, losses, liabilities, damages, costs, settlements and other expenses (including reasonable legal fees) (collectively, "**Claims**") that arise out of any third party claim occasioned by any breach or alleged breach of any of the Indemnifying Party's representations and warranties in Section 9 of this Agreement. The Indemnified Party shall promptly notify the Indemnifying Party of any Claim, provided, however, that any delay in providing such notice shall not relieve the Indemnifying Party of any of its obligations except to the extent that the Indemnifying Party is actually prejudiced by such delay. The Indemnifying Party shall have the right to control the defense and settlement of any indemnified Claim, provided that the Indemnifying Party has no right to compromise or settle any Claim in a manner which affects the other's rights, makes admissions on the other party's behalf or obligates the other party to take or not take any action, including, without limitation, the payment of money, without such party's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

## 10. LIMITATION OF LIABILITY

- a. Neither Outbrain nor the Partner exclude or limit liability to the other for: (i) death or personal injury caused by its negligence or that of its employees or contractors; (ii) fraud or fraudulent misrepresentation; or (iii) any other liability which cannot lawfully

be excluded or limited.

- b. Subject always to Section 10 a., neither party will be liable for: (a) any special, indirect, incidental or consequential loss or damage; (b) any loss of goodwill or reputation; (c) any loss of data; (d) any loss of contracts, business or anticipated savings; or (e) any loss of profits arising out of or in connection with this Agreement or any breach of this Agreement, whether or not such party has been advised of the possibility of such loss or damage, howsoever incurred and whether under a theory of contract, tort (including negligence) statutory duty.
- c. Subject always to Section 10 a. and except for liabilities arising out of any violation, misappropriation or infringement of a party's Intellectual Property Rights, in no event will either party's aggregate liability arising out of or in connection with this Agreement or any breach of this Agreement (whether under a theory of contract, tort (including negligence), statutory duty, or otherwise) exceed the greater of: (i) £100,000 GBP; and (ii) 125% of the amount of Promotional Revenue paid or payable to the Partner in the 12-month period immediately preceding the event giving rise to liability (or, in the case of a series of connected events, the first such event).
- d. Each party acknowledges to each other that it accepts that the restrictions on the liability of each other party, as set out in this Agreement are reasonable in all the circumstances.

11. **EXPORT CONTROLS.** Partner will comply with all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control ("OFAC"), or other United States or foreign agency or authority, and shall not export, or allow the export or re-export of the Service in violation of any such restrictions, laws or regulations. By downloading or using the Service, Partner agrees to the foregoing and represent and warrants that it is not located in, under the control of, or a national or resident of any restricted country. Partner represents and warrants that none of it, or any individual, entity, or organization holding any ownership interest or controlling interest in Partner, including any officer or director, is an individual, entity, organization with whom any United States law, regulation, or executive order prohibits U.S. companies and individuals from dealing, including, names appearing on the Specially Designated Nationals List.

## 12. MISCELLANEOUS

This Agreement shall be interpreted and construed in accordance with and governed by the laws of England and Wales, without regard to conflict of law provisions and both Parties agree to submit to the exclusive jurisdiction of the English courts. The prevailing party in any action arising out of this Agreement shall be entitled to an award of its costs and reasonable legal fees. The parties are independent contractors, and nothing in this Agreement will be construed to create a partnership, joint venture, agency or other relationship between the parties. No failure or forbearance by a party to enforce any of its rights under this Agreement or insist upon performance of the other party's obligations under this Agreement will be



deemed a waiver of such rights or obligations to any extent, and no waiver by either party of any default or breach of the Agreement will constitute a waiver of any other or subsequent default or breach. Except with respect to payment obligations, neither party will be liable for any failure to perform due to causes beyond the party's reasonable control. This Agreement constitutes the entire agreement between the parties concerning its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, concerning such subject matter. This Agreement may be amended, modified or superseded, only by a written instrument signed by both parties. The headings in the Agreement are for the convenience of reference only and have no legal effect. All provisions of the Agreement that by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers and limitations of liability. If any provision of the Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. This Agreement may not be assigned or transferred by Partner for any reason whatsoever (including, without limitation, by operation of law, merger, reorganisation, or as a result of an acquisition or change of control) without Outbrain's prior written consent and any action or conduct in violation of the foregoing shall be void and without effect. Outbrain expressly reserves the right to assign the Agreement and to delegate any of its obligations under it.