



OMNYVERSE MARKETPLACE TERMS FOR ADVERTISERS

These Omnyverse Marketplace Terms for Advertisers are incorporated by reference into each Insertion Order by and between Linkable Networks, Inc., (“**Omnyverse**”), with offices at 51 Melcher Street, 7th Floor, Boston, MA 02210, and the entity entering into the Insertion Order (“**You**”). Omnyverse and You may be referred to as a “party” and together as “parties. The parties agree as follows:

1. Linkable Offers.

1.1. Omnyverse Marketplace. Omnyverse operates the Omnyverse Marketplace where You, as a Merchant, Brand or Agency, may post Linkable Offers, (ii) Publishers may elect to publish Your Linkable Offer in one or more of Publisher’s marketing channels pursuant to the Publisher Terms set by You, including a Publisher Payment for each Transaction.

1.2. Insertion Orders. If You wish to post a Linkable Offer on the Omnyverse Marketplace and Omnyverse wishes to accept such Linkable Offer for posting, You will enter into an insertion order with Omnyverse in the form set forth at [Insertion Order](#) (“**Insertion Order**”). These Omnyverse Marketplace Terms for Advertisers are hereby incorporated into each Insertion Order.

(a) Merchants. If You are a Merchant that wishes to post Linkable Offers on Your own behalf and You are not already a Registered Merchant when we enter into an Insertion Order, You must agree to the Online Merchant Registration Terms set forth at [Merchant Registration Agreement](#) (“**Online Merchant Registration Terms**”) prior to posting Your Linkable Offer. Your status as a Registered Merchant is applicable to Your Insertion Orders and the Insertion Orders of others that may feature You in their own Linkable Offers. In case of an express conflict between these Omnyverse Marketplace Terms for Advertisers and the Online Merchant Registration Terms, the Online Merchant Registration Terms shall control with respect to Your obligations as a Registered Merchant.

(b) Brands. If You are a Brand that is featuring a Merchant in its Linkable Offer, such Merchant must be a Registered Merchant or You must secure the Merchant’s agreement to the Online Merchant Registration Terms set forth at [Merchant Registration Agreement](#) by having the Merchant agree to such terms online prior to posting any Linkable Offers featuring the Merchant. You agree that You will not use any of the Omnyverse Services to create a Linkable Offer featuring any Unregistered Merchant, and if You do so, You shall be liable for, and indemnify Omnyverse for, all actions and omissions of such Unregistered Merchant (and as if such Unregistered Merchants had agreed to the Online Merchant Registration Terms).

(c) Agencies. If You are an Agency, each Insertion Order shall identify Your client and whether Your client is a Brand or a Merchant. Unless the context indicates otherwise, all references to “You” in this Agreement shall include You acting on Your own behalf, You acting as an authorized agent of Your client, and Your Client. You agree to all terms set forth in this Agreement. If Your Merchant client and/or any Merchant featured in Your Linkable Offer is not already a Registered Merchant: (i) You shall secure the agreement of such Merchant to the Online Merchant Registration Terms by having such Merchant agree to such terms at [Merchant Registration Agreement](#) prior to posting any Linkable Offers on behalf of Your Merchant client or featuring any Merchant, (ii) You agree that You will not use any of the Omnyverse Services on behalf of or featuring any Unregistered Merchant, and (iii) if You do so, You shall be liable for, and shall indemnify Omnyverse for, all actions and omissions of such Unregistered Merchants (and as if such Unregistered Merchants had agreed to the Online Merchant Registration Terms).

1.3. Your Responsibilities.

(a) You shall provide to Omnyverse all content, including but not limited to Creative, for Your Linkable Offers. You are responsible for all aspects of Your Linkable Offers, including but not limited to, the Creative, the Publisher Terms and the Consumer Terms. The Consumer Terms shall include details with respect to

the Linkable Offer, refund, return, cancellation and expiration terms, redemption, fulfillment, customer service and such other information as may be required by Omnyverse and/or the Publisher. In addition, the Consumer Terms shall expressly state that You are solely responsible to the consumer for fulfillment of a Linkable Offer. In the event a Linkable Offer will be featured in a Campaign, You will provide all requisite materials for such Linkable Offer in advance of the Campaign.

(b) Although Omnyverse may, as an accommodation, assist You with some or all of the foregoing, You will remain solely responsible for all aspects of the Linkable Offers. As such, You agree to carefully review the applicable Linkable Offer, the Publisher Terms and the Consumer Terms prior to approving them for posting on the Omnyverse Marketplace.

(c) Once the Linkable Offer has been approved by You and posted, the Linkable Offer shall be listed in the Omnyverse Marketplace so that a consumer may elect to Link Your Linkable Offer to his or her registered Payment Card (“**Linkable Offer Listing**”). You are responsible for providing links from Your Linkable Offer Listing to Your web page(s) providing information to the consumer about the Linkable Offer, including the Consumer Terms and related detail pages, fulfillment pages, and purchase confirmation and reminder emails for such Linkable Offer (collectively, “**Linkable Offer Information**”).

(d) You shall ensure that all aspects of Your Linkable Offers and Your Materials comply with (i) all Applicable Laws, and (ii) Omnyverse’s then current posted policies and specifications.

(e) You will be solely responsible for, and bear all costs associated with, the development, creation, production, publication and distribution of Your Linkable Offers, including any costs associated with (i) development and production of Your Creative; (ii) accepting, processing and fulfilling Your Linkable Offers; (iii) managing returns of Your Linkable Offer products and services, (iv) Your Linkable Offer cancellations and refunds; and (v) handling consumer service issues with respect to Your Linkable Offers.

(f) Omnyverse will provide You with: (i) a link, code or other means of enabling consumer to Link Linkable Offers to their Payment Card (“**Consumer Link**”), and (ii) specifications for the Omnyverse logo that apprises a consumer that he or she is viewing an Offer that may be Linked to his or her Payment Card (“**Linkable Bug**”). You will embed the Consumer Link in all online and offline creative for Your Linkable Offer, and conspicuously display the Linkable Bug within the Creative in accordance with the then-current style guide set forth at [Style Guide](#).

(g) Prohibited Data. You are prohibited from providing Omnyverse with any personally identifiable information of consumers and third parties. Without limiting the foregoing, You shall not provide Omnyverse with Order IDs that could potentially be connected to an actual individual, including, but not limited to user names.

(h) Reporting. You acknowledge that You will not receive Consumer names, payment card numbers, card verification values or card expiration dates. Your use of any data reported to You by Omnyverse (“**Reporting Data**”) will be limited as follows: (a) You may use Reporting Data solely to confirm reward activity in connection with a Linkable Offer and to perform Your obligations under this Agreement, (b) You may retain Reporting Data only for so long as You have a legitimate business need to retain it and, in any event, no longer that is necessary to confirm reward activity and perform Your obligations under this Agreement, (c) You will cease use of and delete such Reporting Data following such period, and (d) You will not use, analyze, derive from, or combine with other data elements, Reporting Data in order to determine transaction related information (e.g., to discern payment card number card verification value, expiration date, cardholder identity or characteristics, transaction history or characteristics, etc.). Omnyverse shall have a right to terminate this Agreement immediately in the event You breach this Section 1.3 (h).

1.4. Omnyverse Services. Omnyverse will provide the following services to You in connection with Your Linkable Offers (“**Omnyverse Services**”) and no other services:

(a) Posting Linkable Offers. Once all aspects of Your Linkable Offer have been approved by You, Omnyverse will: (i) convert the Creative into a Linkable Offer, and (ii) post Your Linkable Offer on the Omnyverse

Marketplace. Thereafter, You will not, without Omnyverse's prior written consent, change, modify or discontinue any Linkable Offer that is Linked to any consumer's Payment Card.

(b) Removing or Blocking Linkable Offers. Promptly upon discovery or written notice thereof, Omnyverse has the right to remove or block any Linkable Offer or Campaign that contains Prohibited Listings or for which You have failed to fund any applicable Advertiser Deposit. In addition, Omnyverse has the right, in its sole discretion, to block any Offer Listings from appearing.

(c) Tracking and Reporting. Omnyverse will track all Transactions and report on them as set forth in this Section 1.4(c). All reporting will be made available to You through the dashboard You may access via Your account ("**Dashboard**"). Performance data on each of Your Campaigns will be updated daily. In addition, a monthly report detailing the aggregate number of Transactions for each Linkable Offer per calendar month will be accessible through Your Dashboard within ten (10) business days after the end of the applicable month. This aggregate report will include, for such month, the Transaction Value for each Linkable Offer and the aggregate amounts due from You. Omnyverse's tracking and reporting shall be determinative. Specifically, Omnyverse's tracking and calculation of the number and value of Transactions, the Omnyverse Marketplace Fees, Publisher Payments and Consumer Payments will be final and binding on You.

(d) Third Party Payments. You agree to make all Publisher Payments and Consumer Payments. On Your behalf, Omnyverse will make applicable Publisher Payments and Consumer Payments for all Transactions. Unless otherwise set forth in an Insertion Order, such third party payments will not be made unless and until You have made an Advertiser Deposit covering such payments. Upon termination or expiration of this Agreement, Omnyverse is under no obligation to make any Publisher Payments or Consumer Payments unless and until You have funded and maintained Your Advertiser Deposit at a level sufficient to fund such payments and the associated Omnyverse Marketplace Fees.

(e) Omnyverse Data. For avoidance of doubt, Omnyverse collects, owns, and may use as it chooses anonymous consumer demographic and/or transactional information, and Omnyverse Marketplace information and data ("**Omnyverse Data**").

(f) Self-Serve. Until the Omnyverse Marketplace enables self-serve, You authorize Omnyverse to enter the Campaign information You provide to Omnyverse for You. Once the Omnyverse Marketplace enables self-serve, You shall enter all such information Yourself. .

2. Your Payments; Taxes and Records.

2.1. Payments. With respect to each Linkable Offer, You agree to pay Omnyverse: (a) the Publisher Payments due for Transactions, (b) the Consumer Payments due for Transactions, and (c) the Omnyverse Marketplace Fees. The Omnyverse Marketplace Fees may be a flat fee per Transaction or a percentage of the Transaction Value as set forth in the applicable Insertion Order. If You are an agency, (d) You and Your client shall be jointly and severally liable for payments due under the Insertion Order, (e) You will nevertheless be primarily liable for Your and Your client's obligations hereunder, including any payment obligations, regardless of whether You have received payment from Your client or the Merchants featured in Your Linkable Offers, and (f) under no circumstances may payment to Omnyverse, the Publishers and the Consumers be withheld or delayed due to Your client's failure to make timely payment to You.

2.2. Your Advertiser Deposit. Unless otherwise specified in the Insertion Order, (a) You will provide an Advertiser Deposit to Omnyverse. This Advertiser Deposit will be applied against the Publisher Payments, the Consumer Payments and the Omnyverse Marketplace Fees, (b) after the first month, You will maintain the Minimum Advertiser Deposit Balance at all times, (c) You will immediately remit any payment to Omnyverse in an amount equal to any negative balance. You shall send Your Advertiser Deposit to an account designated by Omnyverse. You will not earn any interest on such account.

2.3. Payment Method; Overdue Payments. To the extent that the applicable Insertion Order does not require You to make an Advertiser Deposit, You will pay Omnyverse for all payments due within thirty (30) days after

Your receipt of the applicable invoice. All payments to Omnyverse shall be made in U.S. Dollars via ACH transfer, bank wire or another means expressly agreed to in writing by Omnyverse. Omnyverse may assess a monthly finance charge of 1.5% per month on past due balances and You will pay Omnyverse for any expenses incurred by Omnyverse in collecting money owed by You hereunder, including, attorney, collection agency, and related fees and expenses.

2.4. Taxes. All fees payable hereunder are exclusive of taxes. If any governmental authority levies any taxes with respect to the services performed by Omnyverse hereunder (excluding taxes on its properties or income), Omnyverse shall invoice You for the amount of such levies and You shall pay such amount within thirty (30) days after receipt of an invoice for such amounts.

2.5. Records. During the Term and for three (3) years after the expiration or termination of this Agreement, You shall maintain records to allow Omnyverse to confirm compliance with the terms and conditions of this Agreement, including the computation of fees payable hereunder, collection and disbursement of Publisher Payments, Consumer Payments and other third party payments, if any, and compliance with confidentiality, data rights, and security obligations. Such review may be conducted not more than once per calendar year and on not less than thirty (30) days' prior written notice.

2.6. Prohibited Use. You may not use the Omnyverse Network to aggregate, solicit or recruit advertisers, Publishers, or other sites or other persons to form or join a marketing, advertising or similar network. .

3. Termination.

3.1. Termination for Breach. Either party may terminate any Insertion Order by written notice if the other party materially breaches this Agreement and fails to cure such material breach within thirty (30) days after receipt of written notice from the non-breaching party of the existence and nature of the breach.

3.2. Termination by Omnyverse. Omnyverse may terminate or suspend Your access to all or part of the Omnyverse Marketplace, or terminate any Insertion Order, in whole or in part, immediately, if Omnyverse is no longer providing the specified services, or should You: (a) engage in illegal activity of any type; (b) become insolvent; (c) make an assignment for the benefit of creditors; (d) cease to do business as an ongoing concern; (e) file a petition or have a petition filed against it under any bankruptcy or insolvency laws; or (f) fail to promptly pay any fees, payments or deposits required of You pursuant to the terms of the Insertion Order.

3.3. Effect of Termination. Upon termination of an Insertion Order, You will pay Omnyverse any outstanding balance in accordance with the terms of this Agreement within ten (10) days of the date of termination. Any obligations that have accrued prior to termination or expiration of the Insertion Order will survive such termination or expiration. The following Sections of these Omnyverse Marketplace Terms for Advertisers, in addition to any other provisions herein which by their nature should reasonably survive termination or expiration hereof, will survive termination or expiration of this Agreement: Sections 2, 3.3, 5, 6, 7, 8, 9, 10 and 12.

4. Licenses.

4.1. Content License. Solely to the extent necessary to exercise the rights and perform the obligations hereunder, You hereby grant to Omnyverse and its Publishers a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement), revocable (under the same conditions for which You may terminate the applicable Insertion Order, royalty-free, right and license to use, copy, display, distribute and perform the Linkable Offer, the Linkable Offer Listing, the Linkable Offer Information, the Publisher Terms and the Consumer Terms and Your Materials, including without limitation, any Creative provided by You hereunder and any element contained in such Creative.

4.2. Trademark License.

(a) Trademark Grant. You hereby grant to Omnyverse and its Publishers a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement), revocable (under the same

conditions for which You may terminate this Agreement), royalty-free, right and license to use, copy, display, distribute and perform the following that are made available to Publishers and/or Omnyverse for use in connection with Your Linkable Offer and/or Campaign: (i) the trademarks, service marks, trade names, logos, iconography and/or product names (in both text and stylized forms) of You and/or any Merchant or Brand featured in Your Linkable Offer (“**Your Licensed Marks**”), and (ii) Your (or Your third party licensors) copyrights (“**Your Copyrights**”). Notwithstanding any provision herein to the contrary, as between the parties, all right, title and interest in the Creative, Licensed Marks and Copyrights will remain the sole and exclusive property of You or Your third party licensors. Omnyverse hereby grants to You a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement), revocable (under the same conditions for which Omnyverse may terminate this Agreement), royalty-free, right and license to use, copy, display, distribute and perform the Omnyverse logo contained in the Consumer Link and Linkable Bug that are made available to You for use in Your Linkable Offers (“**Omnyverse Licensed Marks**” and together with Your Licensed Marks, the “**Licensed Marks**”). Notwithstanding any provision herein to the contrary, as between the parties, all right, title and interest in Consumer Link and Linkable Bug will remain the sole and exclusive property of Omnyverse.

(b) Trademark Obligations. Each party will comply with the trademark usage and other standards made available to such party with respect to such use of the other party’s Licensed Marks. As between the parties, all goodwill arising from use of a party’s Licensed Marks and Copyrights will inure such party and its third party licensors. Neither party will: (i) contest, attack, impair or put in issue the title or any rights of the other party or its third party licensors in and to the other party’s Licensed Marks or Copyrights; (ii) represent in any manner that it owns any right, title or interest in or to the other party’s Licensed Marks, Copyrights or any registrations thereof; (iii) adopt, use, or register, whether as a corporate name, trademark, service mark, or other indication of origin, any of the other party’s Licensed Marks, or any word or mark confusingly similar to them in any jurisdiction. Each party will promptly notify the other party of any infringement, passing off or unfair competition relating to any of the other party’s Licensed Marks or Copyrights that comes to the its attention, and the other party will have the option in its sole discretion in those instances to commence or prosecute, at such party’s own expense, any claims or suits in respect thereto. Each party agrees to assist the other party, at the other party’s expense, to the extent necessary in the protection of the other party’s rights in the Licensed Marks and Copyrights. Neither party will, without the other party’s written consent, issue any complaint or demand in respect of, or commence or continue any action for infringement, passing off or unfair competition to any of the other party’s Licensed Marks or Copyrights.

5. Confidentiality; Data.

5.1. Confidential Information. You and Omnyverse may provide each other with information that is confidential and proprietary to that party or a third party, as is designated by the disclosing party or that, under the circumstances surrounding disclosure, should be reasonably understood to be confidential (“**Confidential Information**”). Omnyverse Data and Reporting Data are Omnyverse’s Confidential Information. Confidential Information shall not include (even if designated by a party) information that is or becomes part of the public domain through no act or omission of the receiving party, or is lawfully received by the receiving party from a third party without restriction on use or disclosure and without breach of this Agreement or any other agreement without knowledge by the receiving party of any breach of fiduciary duty, or that the receiving party had in its possession prior to the date of this Agreement.

5.2. Confidentiality Obligations. Each party agrees to make commercially reasonable efforts, but in no case less effort than it uses to protect its own Confidential Information of similar nature, to protect the confidentiality of the other party’s Confidential Information. Neither party shall disclose the other party’s Confidential Information to any third party other than to its legal and financial advisors, agents, employees, and consultants on a “need to know” basis and to prospective investors or acquirers who are under obligations of confidentiality at least as restrictive as those in this Agreement. Neither party shall use the other party’s Confidential Information for any purpose other than as reasonably necessary for the performance of its obligations and/or exercise of its rights under this Agreement. Notwithstanding the foregoing, without Your consent, Omnyverse may disclose (a) Your Confidential Information to Publishers and other third parties to the extent reasonably necessary for the operations of the Omnyverse Marketplace, (b) Your e-mail address(es) and Your basic account details to Publishers, and (c) Your financial and credit information to Publishers.

5.3. Account Information. Your username and password for Your account for the Omnyverse Marketplace shall be Omnyverse's Confidential Information. You shall be responsible for all usage and activity on Your account and for loss, theft or unauthorized disclosure of Your username or password. You shall provide Omnyverse with prompt written notification of any known or suspected unauthorized use or breach of security of Your account.

5.4. Return of Confidential Information. At the express written request of the other party, each party will return or destroy the other party's Confidential Information in its possession to the extent possible and except (i) as otherwise needed as evidence or as required to be provided by each party in an aggregated form to governmental authority(ies), (ii) to the extent the receiving party has any ongoing rights or obligations hereunder for which such Confidential Information is reasonably necessary, and (iii) for a copy retained by the receiving party solely for the purposes of tracking its obligations hereunder with respect thereto.

5.5. Compelled Disclosure. Either party may disclose the other party's Confidential Information pursuant to an order of a court of competent jurisdiction, by rule or regulation of an administrative agency to which a party is subject, or subpoena, provided that, to the extent permitted by law and feasible, such party provides prompt written notice of such court order, requirement, or subpoena to the other party to enable the other party to seek a protective order, confidential treatment, or to otherwise prevent or restrict such disclosure. Such party will reasonably cooperate, at the other party's expense, to assist the other party in seeking such protective order or otherwise preventing or restricting such disclosure of the other party's Confidential Information.

6. Representations and Warranties.

6.1. Each party represents and warrants that: (a) it has the full power and authority to enter into this Agreement; (b) its execution of and performance under this Agreement does not and will not breach or cause a default under any other agreement or obligation to which it is a party or bound; and (c) its performance under this Agreement will fully comply with all Applicable Laws and any applicable industry self-regulation requirements relating to privacy.

6.2. If You are an Agency, You represent and warrant that You have the authority as Your client's disclosed agent to bind Your client, as its principal, to this Agreement, and that all of Agency's actions related to this Agreement will be within the scope of such agency. You further represent and warrant that Omnyverse shall be deemed a third-party beneficiary under such agency relationship so that Omnyverse may seek recourse against Your client for any breach by Your client or You of this Agreement, including, without limitation, for failure to pay fees due to Omnyverse or failure to adequately and timely remit Publisher Payments, Consumer Payments and Omnyverse Marketplace Fees as provided herein. Upon request, You will make available to Omnyverse written confirmation of the relationship between You and Your client. This confirmation should include, for example, Your client's acknowledgement that You are its agent and are authorized to act on its behalf in connection with this Agreement. In addition, upon the request of Omnyverse, You will confirm whether Your client has paid to You in advance funds sufficient to make payments and satisfy Your payment and funding obligations pursuant to this Agreement. If Your or Your client's credit is or becomes impaired, Omnyverse may require payment in advance.

6.3. You, and if You are an Agency, Your client identified on the Insertion Order, represent and warrant that in connection with Your Campaigns and related Linkable Offers:

(a) You have the right to provide the licenses to the Materials You are providing to Omnyverse and its Publishers;

(b) Your Materials: (i) will not infringe or violate any third party's intellectual property rights or other rights, (ii) will not be defamatory or obscene, (iii) will not violate Applicable Laws or the rights of privacy or personality of any third party, (iv) will at all times be in compliance with Omnyverse's then-current policies, and (v) will not contain or constitute a computer virus or other contaminating or destructive feature;

(c) No Campaign or related Linkable Offer: (i) involves transactions in the following restricted merchant category codes or "vice" categories: healthcare, financial products, legal services, political organizations, court/fines/bail bonds, tobacco, gambling, firearms, funeral services, dating/escort, massage parlors, religious

organizations and other regulated products as determined by Omnyverse Marketplace (and/or a payment card network partner) from time to time, (ii) promotes products or services of a competitor of a payment card network partner or promotes or requires payment card switching; or (iii) furthers unlawful, harmful, threatening, abusive, harassing, defamatory, obscene, pornographic, invasive of another's privacy or infringing purposes; or (iv) promotes bigotry, racism, hatred or harm against any individual or group (collectively, "**Prohibited Listings**");

- (d) Campaigns and related Linkable Offers will have an uptime of at least 99% during the Term; and
- (e) All Merchants featured in Your Linkable Offers are Registered Merchants.

7. Release by You. You and Your representatives and affiliates, release the payment card network partners of all claims against the payment card network partners, third party data providers and other Third Party Providers, and all of its or their representatives and affiliates for and in connection with any services provided by such payment card network partners or Third Party Providers in connection with Your Linkable Offers. You will indemnify the payment card network partners or Third Party Providers in the event You do not meet Your obligations to Omnyverse, consumers or any third parties in connection with Your Linkable Offers. You and Your representatives and affiliates, release the Publishers of all claims against the payment card network partners or any payment card network partner's act or failure to act. You hereby designate the payment card network partners and Publishers as third party beneficiaries hereunder with direct rights of enforcement.

8. Limitation of Liability. EXCEPT FOR ADVERTISER'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR RELATED TO THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES WHICH MAY INCLUDE LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, OR USE, WHETHER IN AN ACTION IN CONTRACT, TORT OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL OMNYVERSE'S AGGREGATE OR CUMULATIVE LIABILITY FOR DAMAGES HEREUNDER EXCEED THE AMOUNT OF FEES PAID BY ADVERTISER TO OMNYVERSE IN THE 6 MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION AND IN THE OTHER PROVISIONS OF THIS AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

9. Disclaimer of Warranties. OMNYVERSE AND ITS THIRD PARTY PROVIDERS DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS, STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. NEITHER OMNYVERSE NOR ANY OF ITS THIRD PARTY PROVIDERS WARRANT THAT ITS PLATFORM OR SITE, ANY INTERNET CONNECTIONS, OR THIRD PARTY CONNECTIVITY, WILL OPERATE UNINTERRUPTED OR ERROR-FREE. OMNYVERSE AND ITS THIRD PARTY PROVIDERS DISCLAIM ANY AND ALL LIABILITY ARISING FROM THE TRANSMISSION OF INFORMATION OVER THE INTERNET, OR ANY IMPAIRMENT OR DISRUPTION OF THE INTERNET, IF AND TO THE EXTENT THAT THE SERVICES PROVIDED HEREUNDER ARE DELAYED, SUSPENDED OR TERMINATED FOR REASONS BEYOND OMNYVERSE'S OR ITS THIRD PARTY PROVIDER'S REASONABLE CONTROL, INCLUDING THE INABILITY OR UNWILLINGNESS OF THIRD PARTIES TO PROVIDE SUPPORTIVE SERVICES. OMNYVERSE AND ITS THIRD PARTY PROVIDERS HEREBY DISCLAIM ANY AND ALL LIABILITIES ASSOCIATED THEREWITH. ADVERTISER HEREBY ACKNOWLEDGES THAT THE SERVICES AND INFORMATION PROVIDED BY OMNYVERSE AND ITS THIRD PARTY PROVIDERS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OMNYVERSE SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING THE SUCCESS OF ANY ADVERTISING CAMPAIGNS PROVIDED BY OR THROUGH OMNYVERSE.

10. Third Party Claims; Indemnification.

10.1. Third Party Claims.

(a) Publisher Claims. Publishers will have a claim against You directly for non-payment of unpaid Publisher Payments (“**Publisher Payment Claims**”).

(b) Consumer Claims. Consumers will have a claim against You directly for non-payment of unpaid Consumer Payments (“**Consumer Payment Claims**”) and any modifications to such payments post Transaction.

10.2. Indemnification. You will defend, indemnify and hold harmless Omnyverse, its Third Party Providers and their respective parents and subsidiaries, employees, officers, directors, agents, successors, heirs, assigns and affiliates (collectively, the “**Indemnified Parties**”) from and against all third party allegations, claims, actions, causes of action and lawsuits and all resulting damages, liabilities, losses, obligations, fines, injuries, costs and expenses, including, reasonable attorneys’ fees, court costs, and witness fees (collectively, “**Losses**”) based on, arising from, attributable to or related to the following (“**Claims**”): (a) Publisher Payment Claims and Consumer Payment Claims, (b) any allegation that any of Your Materials infringes any third party intellectual property right or violates Applicable Law; or (b) Your breach of any of Your obligations, representations and/or warranties contained in this Agreement. Should any Claim give rise to a duty of indemnification under the provisions of this Agreement, then the applicable Indemnified Party will promptly notify You in writing; provided that failure to give such prompt notice will not relieve You of its obligations under this Section, except to the extent of losses that would have been avoided had such notice been given. The Indemnified Party will fully cooperate with You to enable You to fulfill its obligations hereunder with respect to any Claim. An Indemnified Party, at its own expense, may participate in the defense, provided that You will control such defense and all negotiations relative to the settlement of any Claim. Participation in the defense will not waive or reduce any obligations of You to the Indemnified Parties. You may enter into a settlement of a Claim only if it: (a) involves only the payment of money damages by You; and (b) includes a complete release of all Indemnified Parties. Any other settlement will be subject to written consent of the Indemnified Parties (consent not to be unreasonably withheld or delayed). You will pay any judgments, settlement amounts, reasonable attorney’s fees and other costs and expenses of litigation incurred by the Indemnified Parties. The foregoing indemnity obligation will survive any termination or expiration of this Agreement.

11. Force Majeure.

Except with respect to Your payment obligations described in this Agreement, neither party will be liable by reason of any failure or delay in the performance of its obligations hereunder to the extent that it was due to any cause beyond the reasonable control of such party, including electrical outages, failure of Internet service providers, default due to Internet disruption, denial of service attacks, riots, insurrection, acts of terrorism, war, fires, floods, earthquakes, explosions, and other acts of nature, provided that the non-performing party uses reasonable efforts to resume performance as soon as practicable under the circumstances.

12. Miscellaneous

12.1. Choice of Law. This Agreement and all matters related hereto will be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without regard to conflict of law principles. The parties consent to the exclusive jurisdiction and venue of courts in Suffolk County, Massachusetts in all disputes arising out of, or relating to, this Agreement; provided that either party may at any time seek an injunction or other equitable relief in any court of competent jurisdiction for any breach or anticipated breach of Sections 5.

12.2. Notices. All notices, requests, demands and consents sent under this Agreement will be in writing and transmitted via electronic mail (e.g. email). Notices, requests, demands and consents will be sent to the persons at the addresses set forth on the signature page of the applicable Insertion Order or such other persons/addresses as the parties subsequently may specify in writing. Notices by email to Omnyverse should be sent to notice@omnyverse.com.

12.3. Marketing/Publicity. You agree that Omnyverse may identify You and, if You are an agency, identify each of Your clients, as an advertiser on the Omnyverse Marketplace and use the logo of each of them in client lists and in other communications and materials. Any other use of either party’s name or logos will require that party’s prior written consent.

12.4. Independent Contractors. The relationship of the parties will be solely that of independent contractors, and nothing in this Agreement or in the business dealings between the parties will be construed as creating a partnership, joint venture, agency or fiduciary relationship between the parties, or as authorizing either party to act as agent for the other or to enter into contracts on behalf of the other. Neither party will do anything to suggest to third parties that the relationship between the parties is anything other than that of independent contractors.

12.5. Third Party Beneficiaries. The Third Party Providers are third party beneficiaries of Sections 7, 9, 10 of these Omnyverse Marketplace Terms for Advertisers with direct rights of enforcement.

12.6. Severability/Waiver. If any provision of this Agreement is held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining provisions will remain in full force and effect. The parties will in good faith attempt to modify any invalidated provision to carry out the parties' stated intentions. The waiver of any breach of any provision under this Agreement by any party will not be deemed to be a waiver of any preceding or subsequent breach, nor will any waiver constitute a continuing waiver.

12.7. Assignment. Except as set forth below, this Agreement may not be assigned by either party, in whole or in part, without the express prior written consent of the other party. Assignment of this Agreement to a successor to all or substantially all of either party's business (whether by merger, sale of all or substantially all assets, sale of controlling equity interests or otherwise) will not require the other party's consent, but either party may terminate this Agreement if direct or indirect control of the other party's relevant business is acquired by one of the other party's direct competitors.

12.8. Entire Agreement, Amendment, Counterparts. This Agreement is the entire agreement between the parties pertaining to its subject matter and all written or oral agreements, representations, warranties or covenants, if any, previously existing between the parties with respect thereto are replaced hereby. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party.

13. Definitions. The following terms shall have the meanings set forth below:

"Advertiser Deposit" means a deposit with Omnyverse, in the amount set forth in the Insertion Order.

"this Agreement" means the applicable Insertion Order, including these Omnyverse Marketplace Terms for Advertisers.

"Applicable Laws" means all federal, state and local laws and regulations applicable to the performance of either party's obligations under this Agreement, the subject matter of this Agreement or any of Your Materials.

"Agency" means an advertising agency authorized to enter into an Insertion Order on behalf of clients that are Merchants and/or Brands.

"Brands" means brands of products, good and services.

"Campaigns" means advertising, promotional or marketing campaigns sponsored by You that feature Linkable Offers enabled by the Omnyverse Services.

"Confidential Information" shall have the meaning set forth in Section 5.1.

"Consumer Bug" shall have the meaning set forth in Section 1.3 (f).

"Consumer Link" shall have the meaning set forth in Section 1.3 (f).

"Consumer Payments" means the value to be paid to the consumer for each qualifying Transaction that is specified by You in the applicable Insertion Order.

"Consumer Terms" means the terms and conditions of the Linkable Offer applicable to consumers.

"Creative" means any content, text, photos, graphics, drawings, trademarks, logos, creative works, advertisements or marketing materials made available to the Publishers and/or Omnyverse hereunder for Your Linkable Offer.

"Customer Payment Claims" has the meaning set forth in Section 10.1(b).

"Financial Institutions" means those financial services institutions, providers of Payment Cards and other entities that have arrangements with Omnyverse to facilitate the validation and/or provision of rewards, including, without limitation, correspondent banks, financial intermediaries, Payment Card networks and/or payment processing services.

"Link" (and variations thereof) means the act of connecting a Linkable Offer to a Payment Card registered with the Omnyverse Marketplace.

“Linkable Offer” means an Offer made by You that is Linked to a Payment Card.

“Linkable Offer Listing” shall have the meaning set forth in Section 1.3 (b).

“Linkable Offer Information” shall have the meaning set forth in Section 1.3(b).

“Materials” means Campaigns, Linkable Offers, Creatives, Licensed Marks, Copyrights, Linkable Offer Listings, Linkable Offer Information and web pages, links or other information about any Linkable Offer.

“Merchant” means a merchant of goods and services.

“Minimum Advertiser Deposit Balance” means the minimum Advertiser Deposit balance set forth in the applicable Insertion Order.

“Offer” means an advertising, marketing or promotional offer for the purchase of goods or services.

“Omnyverse Marketplace” means Omnyverse’s technology and platform (including software, servers, and associated user interface) by which Omnyverse makes available the Omnyverse Services.

“Omnyverse Marketplace Fees” means the individual fees and payments to Omnyverse for use of the Omnyverse Marketplace that are set forth in the applicable Insertion Order.

“Omnyverse Services” has the meaning set forth in Section 1.4.

“Omnyverse Site” means the Omnyverse website currently located at www.omnyverse.com.

“Payment Card” means any registered payment card, debit card, credit card, digital wallet, any other form of digital or mobile payment, or any other means of payment supported by the Omnyverse Marketplace and/or the Omnyverse Services.

“Prohibited Listings” shall have the meaning set forth in Section 6.3(c).

“Publisher” means any entity that has signed an Omnyverse Master Publisher Agreement and have registered and been accepted as a publisher on the Omnyverse Marketplace.

“Publisher Payment” means the amount to be paid by You to a Publisher for each qualifying Transaction.

“Publisher Payment Claims” has the meaning set forth in Section 10.1 (a).

“Publisher Terms” means the terms and conditions set by You for the Publishers that are displayed along with the Linkable Offer on the Omnyverse Marketplace.

“Registered Merchant” means a Merchant that has entered into an agreement with Omnyverse to become an Omnyverse Marketplace registered merchant.

“Third Party Providers” means third party service providers, publishers, contractors, agents, Payment Card network partners and Financial Institutions involved in the provisioning of the Omnyverse Services to be performed hereunder.

“Transaction” means the occurrence of both of the following for a particular consumer: (a) the consumer clicks on a Linkable Offer via a Publisher’s Publishing Channel; and (b) the consumer redeems the Linkable Offer using a Linked Payment Card, in connection with an online or in-store purchase.

“Transaction Data” means all transaction data relating to Linkable Offers, including Linking, Redemption and Settlement data related thereto, collected by Omnyverse in anonymous form with no PII.

“Transaction Value” means gross sales for a Transaction, exclusive of sales tax, but inclusive of shipping and handling.

“Unregistered Merchant” means a Merchant that is not a Registered Merchant.