

## STANDARD AFFILIATION AGREEMENT - TERMS AND CONDITIONS

REF: ABA

Between:

MEDIAPLAZZA.com, a simplified Joint-Stock Company with a capital of EUR 76,243.34, registered at the Paris Registry of Commerce and Companies under number 430 325 811, the head office of which is at 86, Avenue des Ternes, 75017 Paris, represented by its President, Mr. Eric Gautier,

Hereinafter referred to as MEDIAPLAZZA,

AND:

Company:

Capital:

Registry of Commerce & Companies – branch and registration number:

Name of legal representative:

Position:

Hereinafter referred to as the AFFILIATE.

IT IS FIRST RECITED AS FOLLOWS:

MEDIAPLAZZA is the organizer of an affiliation programme designed to create Links between the MEDIAPLAZZA Website and the AFFILIATE Website, enabling Internet Users to jump to the MEDIAPLAZZA Website and sign up for one or more subscription Services via a premium rate telephone service (IVS type) or premium SMS solution.

The AFFILIATE edits a Website for which it is solely liable and wishes to offer Internet Users visiting its site the means of signing up for the MEDIAPLAZZA Services.

In consideration for inserting Links on the AFFILIATE Website as aforesaid, MEDIAPLAZZA will pay the AFFILIATE remuneration based on the number of subscription Services proposed by MEDIAPLAZZA that are signed up for by End Clients from the AFFILIATE Website.

It is therefore now agreed as follows:

## **Article 1 Definitions**

**Internet User** refers to any natural person connected to the Internet that might consult and/or use the AFFILIATE Website.

**End Client** refers to an Internet User who has signed up for one or more MEDIAPLAZZA subscription Services via the AFFILIATE Website.

**Affiliation Programme** refers to the programme set up by MEDIAPLAZZA whereby the AFFILIATE is able to set up a Link as aforesaid, in consideration for which the AFFILIATE will receive remuneration in the conditions defined at article 10 below.

**Service(s)** refer to all offers proposed by MEDIAPLAZZA on its Websites.

**Link** means any banner, icon, text, search engine, HTML code or form supplied by MEDIAPLAZZA to the AFFILIATE for directing an Internet User to the MEDIAPLAZZA Website to sign up for one or more subscription Services.

**White Pages** refer to Web pages designed by the AFFILIATE in its own house colours, with the tools proposed by MEDIAPLAZZA and hosted by MEDIAPLAZZA, from which Internet Users can access the Services.

**Download(s)** refers to the actual retrieval of the desired resource(s) on the End Client's mobile terminal.

**Operators** refer to the telecom suppliers of MEDIAPLAZZA who ensure payment of Download retrievals whether by means of an IVS (Interactive Voice Server), an SMS+ number or other.

**Master Affiliation** consists of the generation of new AFFILIATES by means of the existing Link on the AFFILIATE Website re-directing Internet Users to the MEDIAPLAZZA Home Page. In this framework, the AFFILIATE becomes the MASTER AFFILIATE and each new entity registered by this means is a "SPONSORED ENTITY". The conditions governing the MASTER AFFILIATION programme are defined in greater detail at article 10.5 herein.

## **Article 2 Subject**

The subject of this agreement is the definition of the terms and conditions under which the AFFILIATE will join the Affiliation Programme (on a non-exclusive basis).

## **Article 3 Prerequisites for joining the Affiliation Programme**

In order to be able to participate in the Affiliation Programme, the AFFILIATE must first complete all the blank fields contained in the on-line application form displayed on the MEDIAPLAZZA Website and click on the "I accept" icon. An account is opened in the name of the AFFILIATE on receipt of this form.

MEDIAPLAZZA reserves the right to reject any application to join the Affiliation Programme at its own discretion and in particular where such applications relate to Websites that:

- Do not comply with current legislation and regulations and/or infringe the rights of any third parties,
- Are unsuited to the sale or promotion of the Services, or that might damage the brand image of MEDIAPLAZZA or its Services.

## **Article 4 MEDIAPLAZZA's obligations**

MEDIAPLAZZA agrees to

- Supply the Link as well as the URL address or addresses to which Internet Users will be directed, within a reasonable period of time from acceptance of the application to join the Affiliation Programme,
- Ensure its IT system is of sufficient quality to allow the Services to function properly,

- Compile and update statistics on completed Downloads using a performance tool, and allow the AFFILIATE on-line access to these statistics, access being User Name and Password dependent,
- Pay the AFFILIATE subject to the conditions defined in article 10.

**Article 5 AFFILIATE's obligations.**

The AFFILIATE agrees:

- To create the White Pages using the manager supplied by MEDIAPLAZZA and in accordance with the technical guidelines provided by MEDIAPLAZZA in such a way as to enable the Services to subsequently function properly,
- To create the Links enabling access to the White Pages without in any way whatsoever altering the computer code (HTML, PHP or other...) needed for creating the Links, communicated by MEDIAPLAZZA,
- Not to display the Links in any manner that might lead the Internet User to confuse the AFFILIATE Website with that of MEDIAPLAZZA,
- To promote the Services actively, sincerely and fairly,
- To draw up invoices that comply with the tax and accounting rules that apply in France and in accordance with the technical terms and conditions developed by MEDIAPLAZZA,
- To inform MEDIAPLAZZA of any alteration to the content of any of its Websites, by all means available and in the shortest time possible,
- To be registered with all competent social authorities or to have a registration number issued by the relevant Registry of Commerce & Companies.

In the event the AFFILIATE fails to carry out any of its obligations above, MEDIAPLAZZA shall be entitled to suspend the AFFILIATE's membership of the Affiliation Programme.

**Article 6 Terms and conditions of use of the Services.**

The AFFILIATE makes a system of Links available on its Website that re-direct Internet Users to the White Pages.

These White Pages contain the Links referring Users to the Services offered by MEDIAPLAZZA as well as the audio text numbers enabling the Service(s) to be used.

The AFFILIATE hereby expressly acknowledges that a system of hypertext links may be substituted for this system of White Pages, whereby Internet Users are re-routed directly from the AFFILIATE Website. Such alteration shall be without effect on this agreement, especially insofar as concerns AFFILIATE payout conditions.

MEDIAPLAZZA will process connections made by End Clients via the Links on the AFFILIATE Website separately.

**Article 7 Warranty and liability.**

7.1 In no event shall MEDIAPLAZZA be liable for the content of any of the AFFILIATE's Websites, neither shall it be liable in the event of disputes or claims by third parties relating to rights granted by the AFFILIATE pursuant to article 8.1 herein. The AFFILIATE hereby agrees to hold MEDIAPLAZZA harmless in the event of any proceedings or action. Thus in the event that a third party brings proceedings against MEDIAPLAZZA on the grounds of the content and/or information disseminated by the AFFILIATE on its Website and/or White Pages and/or the sub-domain name allocated by the AFFILIATE to its White Page(s) and/or the keywords intended to list such White Pages in search engines, or in relation to the rights granted by the AFFILIATE to MEDIAPLAZZA pursuant to article 7.1 herein, the AFFILIATE will assume liability for the costs of defending MEDIAPLAZZA and will compensate MEDIAPLAZZA on first request for any lawyers' fees or sums paid out on any grounds whatsoever and all costs, expenses and compensation for which MEDIAPLAZZA might be liable pursuant to such action, without any limitation whatsoever.

In all events, in the case of proceedings and/or notice to remedy issued as a result of the conduct of the AFFILIATE in particular insofar as concerns failure to comply with the above warranties, MEDIAPLAZZA may:

- Suspend performance of the contract.
- Suspend and retain payment of sums due to the AFFILIATE up to the value of any sums required of or paid by MEDIAPLAZZA.

7.2 MEDIAPLAZZA shall not be liable for any problems relating to the use of the Services attributable to the failure of Internet Users and/or End Clients to comply with the terms and conditions of use or of download of the Service.

MEDIAPLAZZA shall not be held liable for problems arising in using the Services attributable to

- failure by the AFFILIATE to comply with the technical specifications provided by MEDIAPLAZZA, or
- failure by Internet Users to comply with the conditions of use of the said Services.

MEDIAPLAZZA will perform its obligations under the contract with the skill, care and diligence expected of a professional practitioner in this field, within the framework of a best-endeavours obligation. In the event of serious fault on the part of MEDIAPLAZZA, and subject to proof of origin of the fault being established, the AFFILIATE shall be entitled to seek compensation for any direct harm in respect of which it can show the necessary proofs. MEDIAPLAZZA declines all liability in the event of non-performance, even partial, by the AFFILIATE of any of the obligations incumbent upon it under this contract.

MEDIAPLAZZA shall not make any compensation on any grounds whatsoever in respect of indirect losses such as loss of earnings, financial or commercial loss, increase in overheads, loss of brand image, consequences of any third party proceedings or loss originating or arising out of the contract, as well as damage caused to persons or goods that are distinct from the purpose of the contract.

In the event that MEDIAPLAZZA were found liable, the total amount of compensation that MEDIAPLAZZA will pay the AFFILIATE shall not exceed the lower of either (i) the sums collected by the AFFILIATE under the contract over the six (06) months preceding the event giving rise to the damage or (ii) EUR 10,000.

### **Article 8 Intellectual Property rights**

8.1 The AFFILIATE hereby declares that it holds all the rights necessary to grant MEDIAPLAZZA a worldwide, personal, non-exclusive license free of charge for its trademarks, logos, commercial or trade names and other distinctive signs, for the whole of the period of the affiliation agreement and thus authorizes MEDIAPLAZZA to use, reproduce and display the same on its White Pages. No other right whatsoever is granted to MEDIAPLAZZA.

The AFFILIATE declares and warrants that it does not and will not infringe the rights of any third parties whatsoever, especially insofar as concerns the choice of sub-domain names intended to host the White Pages, or of the keywords designed to list the White Pages in search engines.

8.2 MEDIAPLAZZA declares that it is the owner of all the rights necessary to enter into this contract and shall remain the sole owner of its names, trademarks, logo and other distinctive signs together with the whole of the elements that it deploys within the framework of this contract and, in particular, the operating rights in respect of Services and software that might be developed.

### **Article 9 Proof of service of documents**

In the event of a dispute of any nature whatsoever arising between the parties, the parties agree that all processes of exchanging information by electronic means (in particular e-mail), all processes for storing data by electronic means as used by MEDIAPLAZZA and the daily statistics generated by such electronic tools and stored on MEDIAPLAZZA's servers, may be used to establish any necessary proofs.

## **Article 10 Financial conditions**

### **10.1 Basis for remuneration (Payout)**

Remuneration for the AFFILIATE is dependent on the number of Downloads made by End Clients. Payouts are calculated as follows:

- Per Download, and per Service, on the basis of the payout table that can be consulted on the MEDIAPLAZZA Website,
- Subject to the Download(s) having been made lawfully and to the Operators having made payment in respect of the said Downloads(s).

### **10.2 Payout terms and conditions**

Based on the statistics generated by the MEDIAPLAZZA performance tools and using exclusively the tools made available to the AFFILIATE by MEDIAPLAZZA for this purpose, the AFFILIATE will prepare and send MEDIAPLAZZA an invoice incorporating the number of Downloads made over the period(s) in question, using the payout amounts based on the current payout table for the period under consideration and applying the relevant rates to the number of Downloads. MEDIAPLAZZA will verify consistency of these invoices with the statistical data and payout tables mentioned above and, unless there is a dispute, will make settlement within sixty (60) days of receipt. If there is a discrepancy, MEDIAPLAZZA will present its evidence and the parties will attempt to settle the dispute.

However, if the amount of the invoice is less than forty (40) euros, payment thereof will be postponed until the following month and/or until the outstanding amount owed to the AFFILIATE by MEDIAPLAZZA has reached that sum.

Furthermore, if at any time the Downloads for which the AFFILIATE has received payment amount to more than 20% of the sums actually collected by MEDIAPLAZZA from the Operators for these same Downloads, MEDIAPLAZZA will inform the AFFILIATE and adjust the calculation of payouts due to the AFFILIATE accordingly on the basis of the number of Downloads actually paid for by the Operators. The amount of this adjustment will be deducted from the AFFILIATE's subsequent invoice(s).

Invoices must be drawn up and will be settled in euro, any exchange rate costs being at the charge of the AFFILIATE.

### **10.3 Modification to payout scale**

The AFFILIATE acknowledges that MEDIAPLAZZA may modify the payout scale at any time. In this event, MEDIAPLAZZA will alter the payout table on its Website ([www.mediaplazza.com](http://www.mediaplazza.com)) and from that time, all AFFILIATES shall be subject to such new payments.

### **10.4 Disqualification of the right to remuneration**

Any unlawful Download, in particular by way of misuse on quantity of calls, phreaking or any other fraudulent practices resulting from misuse of telephone lines, shall disqualify the AFFILIATE from any payout whatsoever. Furthermore, MEDIAPLAZZA reserves the right to cancel the contract on the exclusive fault of the AFFILIATE and to commence civil or criminal proceedings against the fraudster to enable it to defend its interests.

### **10.5 Master Affiliation**

Remuneration paid to the MASTER AFFILIATE is correlative to the turnover generated by those of the MASTER AFFILIATE's SPONSORED ENTITIES that have subscribed to the MEDIAPLAZZA Services via the Link inserted on the AFFILIATE Website.

The MASTER AFFILIATE will collect 7% (seven per cent) of earnings exclusive of taxes generated by its SPONSORED ENTITIES.

In order to qualify for MASTER AFFILIATE payout, the AFFILIATE must comply with the following obligations:

- No SPONSORED ENTITIES may itself be a MASTER AFFILIATE or a company belonging to the AFFILIATE or the AFFILIATE's Group, that is to say, a company in which the AFFILIATE has a direct or indirect holding of more than 20%.
- Only those SPONSORED ENTITIES registered from the sub-domain chosen and defined by the AFFILIATE when registering from the Affiliation Programme will be taken into account.

In the event that MEDIAPLAZZA establishes that the MASTER AFFILIATE is in breach of the above provision, MEDIAPLAZZA shall be entitled to claim back the whole of the sums unlawfully collected by the MASTER AFFILIATE.

The MASTER AFFILIATE shall have the benefit of these payments for the twelve (12) month period following the date its SPONSORED ENTITY signed up for the MEDIAPLAZZA Services.

In the event a SPONSORED ENTITY generates no income for the period of one (01) month, this article shall cease to apply to that specific SPONSORED ENTITY and the MASTER AFFILIATE shall not receive any further payouts under this article.

***Article 11 Personally identifiable data***

MEDIAPLAZZA hereby agrees to comply with all the provisions of the European Directive of 8 June 2000 and with all other legislation that may be introduced to amend or complete the same. MEDIAPLAZZA is sole proprietor of the database created from the information gathered from End Clients and Internet Users, and is solely liable for processing the personally identifiable data necessary to use the Services.

***Article 12 Term and termination***

This contract comes into force with effect from the date of acceptance of the application form to join the Affiliation Programme submitted by the AFFILIATE, confirmed by MEDIAPLAZZA to the AFFILIATE in an e-mail.

Termination at the initiative of either party.

The contract is entered into for an undetermined period of time. Either party may terminate the agreement at any time by recorded delivery letter with advice of receipt subject to one (01) month's notice and without any compensation being due to either party.

Termination on grounds of absence of income.

In the event the AFFILIATE generates no income over a period of thirty (30) days, MEDIAPLAZZA may terminate this contract without notice.

Termination on grounds of default.

Moreover, in the event the AFFILIATE fails to comply with any of the conditions herein, MEDIAPLAZZA reserves the legal right to cancel the contract on the fault of the AFFILIATE. Such termination shall be given without notice or notice to remedy and is without prejudice to any compensation that MEDIAPLAZZA may be able to claim.

Termination on third party grounds.

The contract shall end legally and automatically in the event of termination of any agreement binding the Operator and/or a service provider and MEDIAPLAZZA. Such termination shall not entitle the AFFILIATE to any compensation of any nature whatsoever.

Effects of termination.

On the cessation of the contractual relationship, whatever the grounds therefor, the AFFILIATE must delete all the Links established between its Website and that of MEDIAPLAZZA. MEDIAPLAZZA will delete the White Pages.

As at the date of termination of the contract, the AFFILIATE must repay all the sums that it might have collected in advance that it would have paid to MEDIAPLAZZA.

No payment shall be owing to the AFFILIATE after the expiration of one week's notice.

### **Article 13 Force majeure**

In the case of any event falling within the definition of force majeure as given by the courts, the obligations of the party prevented from performing the contract shall be suspended. The parties further agree that the following incidents shall be treated as force majeure:

- Interruptions to Services due to default of telecommunication networks or its service providers or the characteristics and limitations of the Internet networks, in particular in the case of interruptions to access networks, technical performance and response-times for consulting, retrieving or transferring information;
- Insurrection, civil war, war, military operations, national or local state of emergency, natural disasters, fire, lightning, explosion, flood, storm.

In the event an occurrence of force majeure prevents one of the parties from performing its obligations under this contract for a period in excess of two (02) weeks, either party may terminate this contract by letter sent recorded delivery with advice of receipt, without being able to claim any compensation from the other party.

### **Article 14 Confidentiality**

Both parties agree to keep confidential all information (including methods and know-how) and documents of any nature whatsoever whether commercial, financial, economic, technical (in particular the scripts supplied by MEDIAPLAZZA) etc., to which they may have had access in the course of performing this contract.

However, neither party shall be deemed liable for divulging information or documents if these:

- Are already in the public domain;
- Were obtained lawfully by third parties not subject to the obligation of secrecy;
- Must be disclosed to a third party by the imperative effect of a law, a decision of the court or of a competent public authority; or
- Are disclosed to a court, including a court of arbitration, or to an expert appraiser or counsel, for the purpose of asserting any right whatsoever pertaining to that party.

### **Article 15 Username and password**

The AFFILIATE has sole liability for using the Username and Password forwarded by MEDIAPLAZZA. On no account should the said Username and Password be disclosed to any third parties. In the event of unauthorized use of its Username and Password, the AFFILIATE must inform MEDIAPLAZZA without delay.

### **Article 16 Independence of the parties**

The terms of this contract shall not be interpreted as making one party the principal, agent or legal representative of the other party. Thus each party agrees to refrain from doing anything that might mislead any third party in this respect and further agrees not to make any undertaking or offer any warranty whatsoever on behalf of the other party.

### **Article 17 Generalities**

The fact of either party failing to avail itself of any of its rights under the terms of this contract shall not be construed as a waiver of such rights for the future.

In the event that any clause in the contract is declared null and void, that clause shall be deemed not to have been written but shall not entail nullity of the contract as a whole. The parties will endeavour to find an equivalent clause that is valid and that reflects their intention.

The contract forms the whole of the contractual documents between the parties and replaces all previous agreements between them with the same subject; it may not be modified except by supplementary agreement signed by both parties.

MEDIAPLAZZA reserves the right to alter these Standard Terms and Conditions at any time. The current Terms and Conditions are accessible on the MEDIAPLAZZA Website and it is therefore the responsibility of the AFFILIATE to check for updates regularly. Nevertheless, MEDIAPLAZZA will inform the AFFILIATE of any alterations to this contract by any means available.

**Article 18 Applicable law - Allocation of competence**

This contract is governed by French Law.

The Commercial Court of Paris shall have sole competence to hear any dispute relating to the interpretation of performance of the contract.

Signed at Paris on \_\_\_\_\_.  
In duplicate originals.

For MEDIAPLAZZA

Mr. Eric GAUTIER

President

For the AFFILIATE