

## Services & Publisher Agreement

This Real Time Bidding Services Agreement (the "Agreement") dated \_\_\_\_\_ (the "Effective Date") is entered into by and between \_\_\_MOBDAY GLOBAL SRL\_\_\_, an Romania corporation, ("Mobday") and \_\_\_\_\_ ("SSP","Publisher") which is duly incorporate in \_\_\_\_\_ .

(Each of Mobday and SSP/Publisher is referred to herein as a "Party" and collectively as the "Parties").

**WHEREAS**, Mobday operates a real-time bidding platform that allows buyers and sellers to connect for the purpose of transacting on offered advertising placements.

("Inventory") by sellers to buyers, on online digital properties such as but not limited to websites (Desktop and Mobile Web), Applications ad placements Connected TV ad placements - referred to herein as the "Platform";

**WHEREAS** The Parties wish to put into writing the details of their Service Agreement ;

The Mobday Mobile Advertising Network ("Service"), owned and operated by Mobday Global SRL ("Mobday"), a company incorporated under the laws of Romania, represented by Iliuta Virgil (CEO) , is provided to you ("Member", "Advertiser", "Publisher", "SSP") under the Terms and Conditions

**("Terms") of this Service Agreement ("Agreement")**, and any amendments thereto and any operating rules or policies. Mobday reserves the right, in its sole discretion, to change, modify, add or remove all or part of the Agreement at any time. If any modification to this agreement is unacceptable to you, your only recourse will be to terminate this agreement. Your continued participation with the Service following our posting of a new agreement on our site will constitute a binding acceptance of the change.

**By accepting the Terms of the Agreement, the Member:**

- (1) Represents and warrants that s/he is of at least 18 years of age
- (2) Agrees to provide accurate, current and complete information about Member as prompted by the Account Registration Form.
- (3) Agrees to maintain and update this information to keep it accurate, current and complete.

If any information provided by Member is inaccurate, not current or incomplete, Mobday has the right to terminate Member's account.

BY COMPLETING THE ACCOUNT REGISTRATION PROCESS, AND CLICKING THE "Register" BUTTON, YOU AGREE TO BE BOUND BY THE AGREEMENT. If these Terms or any future changes are unacceptable to you, you may cancel your account according to the Termination of Service.

#### FURTHER DEFINITIONS

**"Account"** means an account in which value is stored for You, which value You may then spend in using the Services, or be paid, in each case in accordance with this Agreement.

**"Ad"** means any advertisement the content of which an Advertiser or its licensor has produced, including but not limited to text links, banners, buttons, videos, interstitials, pop ups and graphics, and that Mobday causes to be served to any Publisher's Site.

**"Advertiser"** mean you where you are an advertiser who uses any aspect of the Services.

**"Associate"** means, in respect of a party, that part's group companies, customers, partners, sub-contractors, Associates, agents, networks, officers, directors, joint ventures, owners and employees.

**"Confidential Information"** means information disclosed by a party to the other party under this Agreement that is marked as confidential or would normally be considered confidential under the circumstances, and does not include information that: (a) the recipient of the Confidential Information already knew; (b) becomes public through no fault of the recipient; (c) was independently developed by the recipient; or (d) was lawfully given to the recipient by another party.

**"CPM"** means charging on the cost-per-thousand advertising model. The Publisher is paid when an Ad is displayed to a visitor to the Publisher's Site. Impressions are aggregated into groups of one thousand Impressions and payments are calculated and made for each one thousand Impressions.

**"CPC"** means charging on the cost-per-click advertising model. A click is counted when a visitor to a Site clicks on an Ad, as determined by Mobday's tracking technology ("Click").

**"CPI"** means charging on the cost-per-install advertising model. A Install is counted when a visitor to a Site clicks on an Ad and Get converted in Install, as determined by Mobday's tracking technology ("Install").

**"Impression"**: an Impression occurs each time a visitor hit to a Site is recorded, including if an Advertiser visits a Site to which its Ad has been served, this will be counted as an Impression. Where Mobday's administrator visits a Site, no impression will be counted.

**"Intellectual Property Rights"** means current and future worldwide rights under patent law, copyright law, trade secret law, trade mark law, moral rights law, and all other similar rights.

**"Privacy Policy"** means the privacy policy, in respect of Your information, that is published on the Mobday website and may be amended by Mobday and from time to time.

**"Publisher"** mean you where you are a publisher who uses any aspect of the Services.

**"Sign-up Form"** means the form submitted on the Mobday website by you or your Associate when Register for the Service.

**"App/Site"** means any online asset such as a Application/Mobile site (whether using WAP or any other protocol), mobile Internet site, mobile web site, mobile application or device platform to which Mobday serves any Ad.

**"Pending Earning"** means the advertising revenue actually received by Mobday in respect of a Site.

**"Taxes"** means any duties, customs fees, or taxes (other than Mobday's income tax) associated with the Services, including any related penalties or interest.

**"Term of Service"** means the lifetime of the contract created by this Agreement, being sixty days, subject always to termination in accordance with this Agreement.

**"Visitor"** means a unique, individual, human, end-user visitor to a Site, as determined by Mobday's tracking technology.

## **FRAUDULENT ACTIVITIES**

Publishers that commit fraudulent activities may result in non-payment, removal from the network, and/or additional legal action.

Mobday reserves the right to require Publishers to provide server log files upon request.

Mobday has several fraud mechanisms at their disposal that will detect most forms within a few days of the initial activity.

Publishers agree to not artificially inflate traffic counts using a program, script, device, or other means.

Excessive page reloading or any other abuse of Mobday's system could result in legal action.

Without limiting the foregoing, the following methods of generating visitor interest are unacceptable to Mobday and may be grounds for dismissal from the Network:

1. Use of unsolicited email or inappropriate newsgroup postings to promote App/Web/Wap site(s).
2. Auto-spawning of browsers.
3. Automatic redirecting of users.
4. Clicking on own advertisement.
5. Blind text links.
6. Misleading links or any other method that may lead to artificially high numbers of impressions or clicks.

Further: Publishers are prohibited from offering any kind of incentive, including but not limited to cash, credits, loyalty points or any such rewards in an attempt to generate results or in securing leads.

If a Publisher is found incentivising offers they may result in removal from the network, and/or additional legal action.

### **PAYMENTS AND FEES**

Some of the Services require payment of fees. Company reserves the right to change its price list and to institute new charges at any time, upon prior notice to User, which may be sent by email or posted on the Site. If User is an advertiser, User shall pre-pay all applicable fees, as described on the Site, in connection with such Services selected by User.

If Advertiser requests a refund s/he must submit the request in writing to Mobday. An administration charge of twenty percent (20%) will be applied to each refund, subject to a minimum of ten (10) USD. Refunds will be made to the same bank card or account as the original payment, within thirty days of Mobday's receipt of a valid request.

Publisher Should Submit Their TAX ID / PAN ID in Mobday Payment Profile or payment@mobday.com. Without This information publisher will not get paid.

Mobday's payout rate depends on the Publisher, the quality and demand of their traffic, and the volumes.

Mobday reserves the right to change a Publisher's payout rate without notice.

The CPC and CPM rates of live campaigns are not guaranteed or fixed. We offer a variable pricing model.

Mobday reserves the sole right to set its CPC and CPM rates and to set and negotiate specific ad rates on an individual client-by-client basis.

Mobday reserves the right to only pay a Publisher when Mobday itself has been paid by the Advertiser/Ad Networks.

Publisher Payments are made automatically every month by either bank wire or paypal.

The payment made will be the figure showing as due in the Payments tab of your Statistics within the interface.

We do not accept invoices from Publishers.

Publisher Payments are made between 30 and 60 days after the end of the month in which the revenue was earned.

Publisher Payments will only be made when Publisher has submitted correct payment information in Mobday System.

Incorrect payment details will result in loss of revenue and/or a \$100 administration fee, and may lead to termination of the account.

Publishers agree to pay all payment charges imposed by banks or paypal.

The minimum payout is \$50. All unpaid earnings will rollover to the next pay period.

Mobday reserves the absolute right not to pay any accounts or Publishers that violate any of the terms and conditions.

Mobday will not pay or compensate Publishers in any way for any impressions or clicks that have been deemed by Mobday System to be invalid or fraudulent.

In the event that the Publisher has already received payment for invalid impressions or clicks, Mobday reserves the right to seek credit or remedy from future earnings or to demand reimbursement from Publisher.

Mobday will not pay or compensate Publishers in any way for any impressions or clicks if the Publisher account has been terminated due to low activity or no activity.

#### **TERMINATION**

Mobday may, but has no duty to, immediately terminate Member and remove it from the Service servers if in its sole discretion Mobday concludes that Member is engaged in illegal activities or the sale of illegal or harmful goods or services, or is engaged in activities or sales that may damage the rights of Mobday or others. Any termination under this Section shall take effect immediately, and Member expressly agrees that it shall not have any opportunity to cure.

Mobday reserves the right to terminate Publisher's account if there has been no activity during the previous 6 months. Any accrued unclaimed funds will be annulled.

Mobday reserves the right to terminate this Agreement at any time if there is suspicion of fraudulent activity by the Publisher. The Publisher account will be terminated and any accrued funds will be annulled without notification.

User may terminate this Agreement at any time by submitting a support ticket.

#### **LIMITATION OF LIABILITY**

IN NO EVENT SHALL MOBDAY, ITS AFFILIATES OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR CONTENT OR SERVICE PROVIDERS (COLLECTIVELY, THE "PROTECTED ENTITIES") BE LIABLE, WHETHER IN AN ACTION BASED ON A CONTRACT INDEMNIFICATION, OBLIGATION, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), COLLATERALLY OR ARISING FROM ANY STATUTORY DUTY, PRE-CONTRACT OR OTHER REPRESENTATIONS, OR OTHERWISE, HOWEVER ARISING, FOR ANY ECONOMIC LOSSES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS, CONTRACTS, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS) OR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING FROM, OR DIRECTLY OR INDIRECTLY RELATED TO, THE USE OF, OR THE INABILITY TO USE, THE SITE OR THE CONTENT, MATERIALS AND FUNCTIONS RELATED THERETO, YOUR PROVISION OF INFORMATION VIA THE SITE, LOST BUSINESS OR

LOST SALES, EVEN IF SUCH PROTECTED ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CERTAIN USERS. IN NO EVENT SHALL THE PROTECTED ENTITIES BE LIABLE FOR OR IN CONNECTION WITH ANY CONTENT POSTED, TRANSMITTED, EXCHANGED OR RECEIVED BY OR ON BEHALF OF ANY USER OR OTHER PERSON ON OR THROUGH THE SITE. IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF THE PROTECTED ENTITIES TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR OTHERWISE) ARISING FROM THE TERMS AND CONDITIONS OR YOUR USE OF THE SITE EXCEED, IN THE AGGREGATE, THE AMOUNT, IF ANY, PAID BY YOU TO MOBDAY FOR YOUR USE OF THE SITE OR PURCHASE OF PRODUCTS OR SERVICES VIA THE SITE.

### **REGARDING TERMS & CONDITION**

Mobday has the discretion to update these terms of service at any time. When we do, we will revise the updated date at the bottom of this page. We encourage Users to frequently check this page for any changes to stay informed about how we are helping to protect the personal information we collect. You acknowledge and agree that it is your responsibility to review this privacy policy periodically and become aware of modifications.

By using this Site/ Mobday.com, you signify your acceptance of this terms and privacy policy. If you do not agree to these terms, please do not use our Site. Your continued use of the Site following the posting of changes to this policy will be deemed your acceptance of those changes.

This Agreement shall be terminated, automatically without written notice, formal notice of delay or other formality and without the need for court intervention, in the event of the occurrence of any of the “reasonable grounds”. It is mutually agreed that there is “reasonable grounds” when (indicatively):

- Each party commits or is guilty of any acts and /or omissions described in Law or the present Agreement and /or is in breach of this present Agreement.
- Either Party ceases its business, or threatens to cease to carry on business, for any reason and at any time; With the exception of termination for “reasonable grounds” should Publisher terminates the Agreement without complying with the 90 days notice agreed herein, Mobday shall keep the revenue share of Publisher as compensation for the services provided till the termination date, in addition to Mobday’s right to claim any further compensation for the non-compliance with the notice clause by the side of the Publisher.

### **UPDATES: General Data Protection Regulation (GDPR) (EU)**

Mobday not store end-user IP address or other personal data on our servers or others storage.

Mobday use 3<sup>rd</sup> party ads / banners to monetize mobile traffic and aggregate revenue from demand partners.

Mobday does not manipulate personal data and does not store information about visitors, users, partners without their written consent.

## DATA PROTECTION

### 1 DEFINITIONS

1.1 The following definitions apply in this Data Protection Rider: “Controller”, “Data Subject”, “Personal Data”, “Processor” and

“Processes/Processing” shall each have the meanings given in the applicable Data Protection Legislation.

“Data Protection Legislation” means the European Union’s General Data Protection Regulation (2016/679), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all applicable laws and regulations relating to the processing of personal data and privacy as amended, re-enacted, replaced or superseded from time to time, including, where applicable, the mandatory guidance and codes of practice issued by the United Kingdom’s Information Commissioner.

“Personal Data Breach” means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to any Personal Data transmitted, stored or otherwise processed.

“Publisher”/ “SSP” is the organisation to whom this letter is addressed.

### 2 MUTUAL OBLIGATIONS WHEN PROCESSING DATA

2.1 Each party acknowledges that:

2.1.1 Mobday shall Process the Personal Data for the purposes of

2.1.2 (a) optimizing mobile online advertising campaigns across its ad network whether owned, operated or controlled by Mobday including but not limited to the programmatic channel; (b) interest based targeting of Mobday ad campaigns or other survey based services;

2.1.3 (c) data-targeted ad inventory forecasting;

2.1.4 (d) providing its customers, partners and relevant third parties with data as part of campaign reporting and performance

(e) enrichment, creation of audience

profile/segments including sharing with data partners for enrichment purposes.

Publisher further acknowledges that Mobday may need to transfer Personal Data outside of EU in the context of Processing. ;

2.1.2 the processing shall continue, for the duration of this agreement;

2.1.3 the processing concerns the following Personal Data:

In Process

2.1.3.1 user device identifier;

2.1.3.2 IP address;

2.1.3.3 User agent or such device information;

2.1.3.4 Fine location;

2.1.3.5 Persistent online identifiers (such as IDFA, ADID, GPID etc.,)

2.2 It is acknowledged that both Parties are under certain record keeping obligations under the Data Protection Legislation, and agree to provide the other Party with all reasonable assistance and information required by the other Party to satisfy such record keeping obligations.

2.3 In the event of any Personal Data breach (actual or suspected) involving the Publisher or a sub-Processor, the Publisher shall (at no cost to Mobday):

2.3.1 notify Mobday of the Personal Data breach without undue delay (but in no event no later than 24 hours after becoming aware of or first suspecting the Personal Data Breach);

2.3.2 provide Mobday without undue delay (and wherever possible, no later than 48 hours after becoming aware of or first suspecting the Personal Data Breach) with such details as Mobday may require in relation to:

(a) the nature and impact of the Personal Data Breach, including the categories and approximate numbers of Data Subjects and

Personal Data records concerned;

(b) any investigations into such Personal Data Breach;

(c) the likely consequences of the Personal Data Breach; and

(d) any measures taken, or that the Publisher will take to address the Personal Data Breach, including to mitigate its possible

adverse effects and prevent the reoccurrence of the Personal Data Breach or a similar breach, provided that, (without prejudice to the above obligations) if the Publisher cannot provide all these details within such timeframes, it shall, before the end of this timeframe, provide Mobday with reasons for the delay and when it expects to be able to provide the relevant details (which may be phased), and give Mobday regular updates on these matters.

<b>Signed on behalf of Mobday Global SRL Managing Director &amp; CEO</b>	<b>Signed on behalf of PUBLISHER Administrator</b>
	Name:

Date:.....