



THINK CLEVER MEDIA DATA PROCESSING AGREEMENT

This Agreement is dated [DATE] (Effective Date)

PARTIES

(1) THINK CLEVER MEDIA LIMITED, a company incorporated and registered in England and Wales with company number 08845668 whose registered office is at 32 West Way, Bournemouth, Dorset, BH2 3ED (TCM)

(2) [NAME], [a company incorporated/individual] whose address is [ADDRESS] (Company)

(together the Parties and each a Party).

BACKGROUND

(A) TCM is the entire legal and beneficial owner of all the Intellectual Property Rights in the Content Ignite Platform.

INTRODUCTION

The Parties have previously entered into an MSA for the provision of Services. The Parties agree that there may be Personal Data shared between the Parties, including but not limited to, internet protocol addresses, precise location data and similar unique IDs such as cookie IDs and device IDs, in connection with the performance of each Party's obligations under the MSA described below. This Agreement only applies to the extent that EU Data Protection Law applies to the Processing of Personal Data under this Agreement, including if (a) the Processing is in the context of the activities of an establishment of either Party in the European Economic Area ("EEA") and/or (b) the Personal Data relates to Data Subjects who are in the EEA and the Processing relates to the offering to them of goods or services or the monitoring of their behaviour in the EEA by or on behalf of a Party. The Parties shall ensure that they will Process Personal Data solely for the purposes contemplated in the MSA or as otherwise agreed to in writing by the Parties. For the avoidance of doubt, this Agreement and the obligations hereunder do not apply to aggregated reporting or depersonalised statistics a Party may provide to the other Party in connection with the provision of the Services hereunder.

TERMS AND CONDITIONS

1. Definitions and Interpretation

1.1 In this Agreement, the following terms shall have the following meanings:

a. "Applicable Data Protection Law" means any and all applicable privacy and data protection laws and regulations (including, where applicable, EU Data Protection Law) as may be amended or superseded from time to time.

- b. "Controller", "Processor", "Data Subject", "Personal Data", "Processing" (and "Process"), "Personal Data Breach" and "Special Categories of Personal Data" shall have the meanings given in EU Data Protection Law.
- c. "Controller to Controller Standard Clauses" in relation to the Processing of Personal Data pursuant to this Agreement means the standard clauses for the transfer of Personal Data to Controllers established in third countries approved by the European Commission from time to time, the approved version of which in force at present is that set out in the European Commission's Decision 2004/915/EC of 27 December 2004, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004D0915>. Schedule A to this Agreement shall apply as Annex B of the Controller to Controller Standard Clauses.
- d. "Controller to Processor Standard Clauses" in relation to the Processing of Personal Data pursuant to this Agreement means the standard clauses for the transfer of Personal Data to Processors established in third countries approved by the European Commission from time to time, the approved version of which in force at present is that set out in the European Commission's Decision 2010/87/EU of 5 February 2010, available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32010D0087>. Exhibit 2 to this Agreement shall apply as Appendix 1 of the Controller to Processor Standard Clauses.
- e. "Cross-App Advertising" as currently defined by the Network Advertising Initiative ("NAI"), means the collection of data through applications owned or operated by different entities on a particular device for the purpose of delivering advertising based on the preferences or interests known or inferred from the data collected, or as may be amended by the NAI from time to time.
- f. "EU Data Protection Law" means the (i) EU General Data Protection Regulation (Regulation 2016/679) ("GDPR"); (ii) the EU e-Privacy Directive (Directive 2002/58/EC), as amended (e-Privacy Law); (iii) any national data protection laws made under, pursuant to, replacing or succeeding (i) and (ii); and (iv) any legislation replacing or updating any of the foregoing.
- g. "ID" means: (i) a unique identifier stored on an end-user's device, (ii) a unique identifier generated on the basis of device information, or (iii) a resettable advertising ID associated with a mobile device or an application.
- h. "MSA" means any agreement between Think Clever Media and Company where a Party engages in or is permitted to engage in the Processing of Personal Data of Data Subjects. This includes standard terms that are issued as part of using the service.
- i. "Relevant Privacy Requirements" mean all (i) applicable advertising self-regulatory requirements, laws, governmental regulations and court or government agency orders, decrees and policies relating in any manner to the collection, use or dissemination of information from or about users, user traffic or otherwise relating to privacy rights or with respect to the sending of marketing and advertising communications; (ii) any written agreements Company or Think Clever Media may have with non-governmental certification or self-regulatory bodies and that are made available in writing by one Party to the other; (iii) posted privacy policies; and (iv) for mobile applications, the terms of service for the applicable mobile operating system.
- j. "Security Incident" shall mean any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data of the other Party. For the avoidance of doubt, any Personal Data Breach of the other Party's Personal Data will comprise a Security Incident.
- k. "Services" means services provided to the other Party pursuant to the terms of an MSA.
- l. "Subprocessor" means any entity which provides processing services on behalf of a Processor.

m. "GDPR Effective Date" is 25th May 2018

1.2 The Exhibits and Annexes form part of this Agreement and a reference to an Exhibit or an Annex is, unless stated otherwise, a reference to an exhibit or annex to this Agreement.

1.3 In consideration of the mutual obligations set out herein, the Parties hereby agree that the terms and conditions set out below shall be added as an addendum to the MSA. Except where the context requires otherwise, references in this Agreement to the MSA are to the MSA as amended by, and including, this Agreement.

2. Obligations of the Parties

2.1 The Parties agree that they will each act as a Controller, Processor and/or Subprocessor as further detailed at the services description page located at <https://www.contentignite.com/data-processing-agreement/> "Services Description".

2.2 Part I of Annex 1 located at <https://www.contentignite.com/data-processing-agreement/> will apply where TCM and Company are both Controllers.

2.3 Part II of Annex 1 located at <https://www.contentignite.com/data-processing-agreement/> will apply where:

- a. TCM is a Controller and the Company is a Processor, or
- b. TCM is acting as a Processor on behalf of a third party Controller (not Company) and Company is a Subprocessor.

2.4 Part III of Annex 1 located at <https://www.contentignite.com/data-processing-agreement/> will apply where:

- a. Company is a Controller and TCM is a Processor, or
- b. Company is acting as a Processor on behalf of a third party Controller and TCM is a Subprocessor.

2.5 The Parties shall, at all times, comply with their respective obligations under Applicable Data Protection Laws.

2.6 Additionally, the Parties agree that the following email addresses shall be monitored for data protection enquiries and Data Subject Requests:

TCM: contact@thinkclevermedia.com Company: The email address provided by Company during the process of accepting these terms and stored by TCM in the course of processing Company's acceptance.

3. International transfers

3.1 Where EU Data Protection Law applies, neither Party shall transfer or permit any Personal Data shared by the other Party to be transferred to a territory outside of the EEA unless it has taken such measures as are necessary to ensure the transfer is in compliance with EU Data Protection Law. Such measures may include (without limitation) transferring the Personal Data to a recipient in a country that the European Commission has decided provides adequate protection for Personal Data or to a recipient in the United States that has certified compliance with the EU-US Privacy Shield framework.

3.2 Where each Party is a Controller, the following terms apply. Except with regard to Personal Data transferred from one Party to the other Party in reliance on the transferring Party's Privacy Shield certification or other appropriate transfer mechanism specified in Section 3.1 above, the Controller to Controller Standard Clauses shall apply to the receiving party's Processing of the Personal Data in countries outside the EEA that do not provide an adequate level of data protection. To the extent that the Parties transfer Personal Data in

reliance on the Controller to Controller Standard Clauses, the Controller to Controller Standard Clauses shall be incorporated herein upon execution of this Agreement by the Parties. Where and to the extent that the Controller to Controller Standard Clauses apply pursuant to this Section 3, if there is any conflict between this Agreement and the Controller to Controller Standard Clauses the standard clauses shall prevail.

3.3 Where a Party is the other Party's Processor, the following terms apply. Unless the Processor transfers Personal Data pursuant to a transfer mechanism specified in Section 3.1 above, the Processor shall execute and abide by the Controller to Processor Standard Clauses which shall apply to Processing of Personal Data in countries outside the EEA that do not provide an adequate level of data protection. To the extent that the Parties transfer Personal Data in reliance on the Standard Clauses, the Standard Clauses shall be incorporated herein upon execution of this Agreement by the Parties. Where and to the extent that the Controller to Processor Standard Clauses apply pursuant to this Section 3, if there is any conflict between this Agreement and the Controller to Processor Standard Clauses the standard clauses shall prevail.

4. Term and Concluding Provisions

The term of this Agreement will take effect on the date of execution of this Agreement (the "Effective Date") by the Parties and will remain in effect until terminated by either Party (the "Term"). The Parties agree that Personal Data will be processed by the other Party for the duration of the Services under the Agreement. This Agreement shall survive termination or expiry of the MSA. Upon termination or expiry of the MSA, each Party may continue to Process Personal Data provided that such Processing complies with the requirements of this Agreement and Applicable Data Protection Law and provided that such Processing ceases within thirty (30) days, or earlier upon written request by the other Party. Notwithstanding the Effective Date of this Addendum, the Parties agree that the obligations under this Addendum that are specific to the GDPR shall not apply until the GDPR has come into full force and effect (the "GDPR Effective Date").

5. Miscellaneous

This Agreement and any underlying MSA shall constitute the entire agreement between the Parties with respect to the subject matter hereof, and this Agreement supersedes all prior agreements or representations, oral or written, regarding such subject matter including any provisions in the MSA which address the processing of Personal Data.

GOVERNING LAW & JURISDICTION

This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim except to the extent that Applicable Data Protection Law requires otherwise..

By Think Clever Media's offer of these terms and Company's acceptance as recorded by Think Clever Media, the Parties acknowledge that they have read and understood the terms of this Agreement and agree to be legally bound by them.

[FULL DIGITAL COPY WILL HAVE DETAILS FOR SIGNING AND COUNTER SIGNING]