

THEOUTNET.COM Affiliate Terms & Conditions

These terms and conditions set out the rights and obligations which will form the legal agreement ("this Agreement") between you ("Affiliate") and THE NET-A-PORTER GROUP LIMITED (trading as THEOUTNET.COM) whose registered office is 1 The Village Offices, Westfield, Ariel Way, London, W12 7GF ("THEOUTNET.COM").

This Agreement shall supplement the Partnerize Terms and Conditions (the "Partnerize Terms") entered into between Affiliate and Performance Horizon Group Limited t/a Partnerize ("Partnerize"), which shall together govern your participation in the OUTNET.COM Affiliate Program (defined below).

Upon validation and acceptance by THEOUTNET.COM of an Affiliate's application to join the THEOUTNET.COM Affiliate Program (as defined below), THEOUTNET.COM will communicate its acceptance of the Affiliate's application to the Affiliate at which time this Agreement will take effect immediately.

1 Definitions

In this Agreement the following terms have the following meanings:

"Additional Web Based Tools and Functionality" shall include but not be limited to the use of: (i) toolbars, (ii) browser extensions, (iii) pop ups, (iv) hidden links, (v) tools or software that intercept web-based searches, redirect traffic and/or overwrite commission tracking cookies; as well as (vi) any other parasitic marketing tools or software whether now known or hereafter developed which have as their intention or effect, the ability to overwrite either genuine Transactions via the THEOUTNET.COM Website or other THEOUTNET.COM endorsed affiliate links, and falsely attribute such Transactions to the Affiliate.

"Affiliate Commission" or "Commission" the compensation the Affiliate may earn on Transactions;

"Affiliate Website" the internet website(s) owned or operated by the Affiliate;

"Agreed Purposes" the interaction between the parties in relation to the Affiliate's participation in the THEOUTNET.COM's Affiliate Program;

"Chargeback" the cancellation of Commission due to the Affiliate (if not already paid) or refund of Commission in respect of Returned or Cancelled Items (as defined below), as well as in respect of fraud or suspected fraud on the part of either the Affiliate or a Visitor, or for any other circumstances specified by THEOUTNET.COM;

"Commencement Date" the date on which THEOUTNET.COM or Partnerize informs the Affiliate that the Affiliate's application to join the THEOUTNET.COM's Affiliate Program with The LinkShare Network(TM) has been successful;

"Confidential Information" all information or data (whether oral, visual, recorded in writing, in any other medium or by any other method) disclosed to or obtained by one Party from the other or from a third party, including without limitation any information relating to a Party's operations, processes, plans, intentions, price lists, pricing structures, Intellectual Property Rights, market opportunities, customers and business affairs;

"Control" the power of a person or group of persons acting together, to secure: i) by means of the holding of shares or the possession of voting power in or in relation to that or any other company; and ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate; that the affairs of the first body corporate are conducted in accordance with the wishes of that person;

"Controller", "data controller", "processor", "data processor", "data subject", "personal data", "processing" and "appropriate technical and organisational measures" as set out in the Data Protection Legislation in force at the time.

"Data Protection Legislation" means (a) the Data Protection Act 2018; (b) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with

regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) including the recitals or equivalent legislation; and all other applicable laws (including judgments of any relevant court of law) and regulations relating to the processing of personal data, data privacy, electronic communications, marketing and/or data security, in each case as amended, extended or re-enacted from time to time;

"Intellectual Property Rights" any patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Last Touch Email" means a Transaction which was attributed on a last-click basis to the THEOUTNET.COM's own email marketing channel rather than the THEOUTNET.COM Link;

"Party" a party to this Agreement;

"Permitted Recipients" the parties to this agreement, the employees of each party and any third parties engaged to perform obligations in connection with this Agreement;

"Publisher Agreement" the agreement between the Affiliate and THE LINKSHARE NETWORK(TM) relating to pay-for-performance marketing programs;

"Reseller Sales" means where a Transaction occurs through the THEOUTNET.COM Link that is deemed by the THEOUTNET.COM to be for resale to third parties and/or beyond the quantities expected for personal use;

"Returned Items" & "Cancelled Items" Orders returned or cancelled in accordance with the THEOUTNET.COM's return and cancellation policy which can be found under 'About Us' on the THEOUTNET.COM Website. The refund period for returns is 28 days or such other period as may be set out in THEOUTNET.COM's returns policy or THEOUTNET.COM Website from time to time (the "Returns Period").

"Service Website" the website maintained by Partnerize at <http://console.partnerize.com>.

"Shared Personal Data" the personal data to be shared between the parties under this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject: First Name; Last Name; Email Address; each belonging to the Affiliate and/or its representatives or employees where applicable who interact with the Service Website through the course of the Affiliate's participation in the THEOUTNET's Affiliate Program;

"THEOUTNET.COM Affiliate Program" the Affiliate scheme arranged and operated by THEOUTNET.COM in association with Partnerize;

"THEOUTNET.COM Campaign Page" the information page hosted by Partnerize on THEOUTNET.COM's behalf which sets out the amount of the Affiliate Commission and other commercial terms of the THEOUTNET.COM Affiliate Program;

"THEOUTNET.COM Link" a hypertext link incorporating the Tracking Code and any THEOUTNET.COM Mark or THE OUTNET.COM's other Intellectual Property Rights which allows Visitors to move directly from the Affiliate Website to the THEOUTNET.COM Website in the format set out in the Service Website members' area's user interface (which is available via a link from the THEOUTNET.COM Campaign Page);

"THEOUTNET.COM Marks" the trade marks, logos, text and marks licensed to the Affiliate by THEOUTNET.COM for the purpose and duration of this Agreement;

"THEOUTNET.COM Website" the internet website owned or operated by THEOUTNET.COM being located at www.theOutnet.Com or such other address as THEOUTNET.COM may from time to time inform the Affiliate of and where Visitors may carry out Transactions;

"Tracking Code" the tracking code used by Partnerize to track and monitor various internet usage patterns including without limitation the Affiliate's performance in referring Visitors from the Affiliate Website to the THEOUTNET.COM Website and recording which of those referrals result in Transactions;

"Transaction" a purchase made via the THEOUTNET.COM Website; and

"Visitor" a person who uses the THEOUTNET.COM Link created pursuant to this Agreement to be transferred from the Affiliate's Website or a subscription e-mail sent by the Affiliate to the THEOUTNET.COM Website;

1 Interpretation

1.1 In this Agreement unless the context requires otherwise:

1.1.1 references to a Clause are to a clause of this Agreement;

1.1.2 references to this Agreement are to this Agreement as amended from time to time in accordance with the notice provision in Clauses 16 & 19.1;

1.1.3 the singular includes the plural and vice versa; references to any gender include every gender; and references to persons include corporations, partnerships and other unincorporated associations or bodies of persons;

1.1.4 all headings are for convenience, have no legal effect and should be ignored when interpreting this Agreement;

1.1.5 the words "other", "including" and "in particular" do not limit the generality of any preceding words;

1.1.6 a reference to any provision of any enactment will be construed as a reference to that provision or enactment as amended, re-enacted or extended at the relevant time; and

1.1.7 unless the contrary appears any right or power conferred by this Agreement may be exercised and any duty or obligation imposed by this Agreement is to be performed, from time to time, as occasion requires.

2 General

2.1 Subject to the terms of this Agreement, the Affiliate agrees to promote THEOUTNET.COM by making available on the Affiliate's Website the THEOUTNET.COM Link and THEOUTNET.COM agrees to pay Partnerize the Affiliate Commission which shall then be paid by Partnerize to the Affiliate.

2.2 The terms of the THEOUTNET.COM Campaign Page are expressly incorporated into this Agreement. In the event of any conflict between the terms of this Agreement, the Partnerize Terms and the THEOUTNET.COM Campaign Page, the terms of this Agreement shall prevail.

2.3 Notwithstanding the generality of Clause 2.2 above, the following clauses of the Partnerize Terms will not apply to the Affiliate in respect of the THEOUTNET.COM Affiliate Program:

2.3.1 Clauses 5.4(a)(iii) and 5.4(b)(ii) regarding unclaimed Commission;

3 Commencement

3.1 This Agreement shall commence on the Commencement Date and shall continue until terminated upon five (5) days written notice by either Party to the other through the Service Website members' area's user interface.

4 Your Use of the THEOUTNET.COM Link

4.1 Subject to the licence granted to the Affiliate under Clause 4.2 below, THEOUTNET.COM reserves all of its right, title and interest in its Intellectual Property Rights in the THEOUTNET.COM Link and the THEOUTNET.COM Website, including the THEOUTNET.COM Marks.

4.2 THEOUTNET.COM grants to the Affiliate during the term of this Agreement a non-exclusive, royalty-free, world-wide licence to use, reproduce and display the THEOUTNET.COM Link and use THEOUTNET.COM Marks on the Affiliate's Website solely for the purposes envisaged by this Agreement. Any other use of the THEOUTNET.COM Link by the Affiliate or any other way to the THEOUTNET.COM Website, the THEOUTNET.COM Marks, or the THEOUTNET.COM's other Intellectual Property rights, not covered by this Clause 4.2 are expressly excluded.

4.3 The Affiliate shall only use the THEOUTNET.COM Link obtained through the Service Website's members' area user interface (which is available via a link from the THEOUTNET.COM Campaign Page) to link to the THEOUTNET.COM Website.

4.4 The Affiliate shall post the THEOUTNET.COM Link on the Affiliate Website and shall, except with the prior written consent of THEOUTNET.COM, have no right to display the THEOUTNET.COM Link

other than in the format obtained by the Affiliate from THEOUTNET.COM through the Service Website's members' area's user interface.

4.5 THEOUTNET.COM may in its sole discretion, from time to time, change the appearance or style of the THEOUTNET.COM Link or THEOUTNET.COM Marks and such THEOUTNET.COM Link or THEOUTNET.COM Marks shall be dynamically modified by THEOUTNET.COM or Partnerize on THEOUTNET.COM's behalf, or Partnerize shall on THEOUTNET.COM's behalf make available to the Affiliate an amended THEOUTNET.COM Link on the THEOUTNET.COM Campaign Page via the Service Website's members' area's user interface or provide details of the amended THEOUTNET.COM Marks. The Affiliate agrees to only use the most up to date version of the THEOUTNET.COM Link and/or THEOUTNET.COM Marks for the purposes set out in this Agreement and shall remove any THEOUTNET.COM Link or THEOUTNET.COM Marks as instructed by THEOUTNET.COM or Partnerize from time to time that are no longer current.

4.6 The Affiliate acknowledges that the Intellectual Property Rights of THEOUTNET.COM (including without limitation the THEOUTNET.COM Link and THEOUTNET.COM Marks) are and shall remain the sole and exclusive property of THEOUTNET.COM. Any goodwill associated with any such rights shall inure exclusively for the benefit of THEOUTNET.COM.

4.7 The Affiliate agrees not to use the THEOUTNET.COM Link or THEOUTNET.COM MARKS in a manner that disparages

THEOUTNET.COM, or its products or services, or portrays THEOUTNET.COM and/or its products or services in a false light. The Affiliate will comply with THEOUTNET.COM's requests as to the use of the THEOUTNET.COM Link or Intellectual Property Rights (including the THEOUTNET.COM Marks) and will not knowingly take any action that diminishes the value thereof.

4.8 The Affiliate agrees not to reproduce or store all or any part of the THEOUTNET.COM Website in any form on the Affiliate's Website or on any other website or other electronic retrieval system.

5 Affiliate Warranties

5.1 The Affiliate represents and warrants to THEOUTNET.COM that:

5.1.1 The Affiliate shall not register, lodge or supply with or to any internet search engine or like service or bid on any keywords or adwords the terms "net a porter", "theOutnet.com", "outnet", "www.outnet.com", "www.theoutnet.com", "out net", "the out" "www.net.com", "the out-net", "www.theOutnet.com", "www.the-out-net.com", "theOutnet com", "www.the.out.net", "www.theOutnet-com", "www.theoutnet.com.com", "net a porter", "net-a-porter", "netaporter", "www.net-a-porter.com", "netaporter.com", "www.netaporter.com" or any other phrase which could be confused intentionally or otherwise, with the word "THEOUTNET.COM" unless otherwise agreed in writing by THEOUTNET.COM;

5.1.2 The Affiliate shall not register, lodge or supply with or to any internet search engine or like service or bid on keywords or adwords for the terms or phrases which could be confused intentionally or otherwise, with the designers listed on THEOUTNET.COM'S designer page (<http://www.theoutnet.com/Shop/Designers>) unless otherwise agreed in writing by THEOUTNET.COM;

5.1.3 The Affiliate shall not use any form of incentive for Visitors to click on the THEOUTNET.COM Link without the prior written agreement of THEOUTNET.COM;

5.1.4 The Affiliate shall not use an internet search engine or like service to provide links directly to the THEOUTNET.COM Website, other than through the THEOUTNET.COM Link in accordance with the terms of this Agreement;

5.1.5 The Affiliate shall not, without the prior written consent of THEOUTNET.COM:

5.1.5.1 create, install, switch on or make available to customers of THEOUTNET.COM any Additional Web Based Tools and Functionality.

5.1.5.2 sign up as a partner or agent to the Google Comparison Shopping Service on behalf of THEOUTNET.COM, the THEOUTNET.COM Website, or in respect of any THEOUTNET.COM products.

5.1.6 If the Affiliate uses an internet search engine or alike service to provide links to the Affiliate's Website, the Affiliate shall not register, lodge or supply with or to any such internet search engine or like service any terms which infringe the Intellectual Property Rights of any third party or any terms which are associated with or are the name or logo of THEOUTNET.COM's direct or indirect competitors and suppliers and the Affiliate shall fully indemnify and keep THEOUTNET.COM fully indemnified against all loss, damages, claims, demands, actions, costs, charges, expenses and liabilities of whatsoever nature which THEOUTNET.COM may suffer or incur as a result of breach of this warranty;

5.1.7 The Affiliate shall ensure that no other web pages, links or other pop-up boxes appear on a Visitor's screen when THEOUTNET.COM's Link is used and that the only web page that appears on

the Visitor's screen following the use of the THEOUTNET.COM Link is the THEOUTNET.COM Website's homepage;

5.1.8 The Affiliate shall not participate as an Affiliate on behalf of THEOUTNET.COM or enter into a similar arrangement on THEOUTNET.COM's behalf other than as provided under this Agreement;

5.1.9 The Affiliate will do nothing that would detrimentally affect THEOUTNET.COM or THEOUTNET.COM's good name and/or reputation and shall fully indemnify and keep THEOUTNET.COM fully indemnified against all loss, damages, claims, demands, actions, costs, charges, expenses and liabilities of whatsoever nature which THEOUTNET.COM may suffer or incur as a result of breach of this warranty; and

5.1.10 The Affiliate will comply in all respects with any obligations the Affiliate may have under the Data Protection Legislation and more specifically, its obligations under clause 5.4 below;

5.2 Further, in respect of the Affiliate's Website, the Affiliate represents and warrants that it:

5.2.1 will comply with all applicable laws and regulations;

5.2.2 including, without limitation, the domain name, will not infringe any Intellectual Property Rights of a third party;

5.2.3 will not libel, defame, cause injury to, invade the privacy of or otherwise infringe or violate the rights of any person or third party;

5.2.4 will not contain any defamatory, pornographic or unlawful content;

5.2.5 will not link directly to any material which is in breach of the provisions of this Agreement; or

5.2.6 will not falsely advertise promotional codes, discounts or similar;

5.2.7 will not promote the following brands Alaia, Burberry, Chloé, Christian Louboutin, Eres, Fendi, Givenchy, Gucci, Kenzo, Loewe, Miu Miu, Mulberry, Robert Clergerie, Saint Laurent, The Row and Tod's.

5.3 Where an Affiliate is Californian and/or operating in California, then in relation to the Sales and Use Tax Regulation 1684 ("Regulation 1684"), it warrants and represents that:

5.3.1 It shall not engage in marketing activities that the California Board of Equalization would deem as "solicitation" directly targeted to California consumers in order to be compliant with Regulation 1684 that was enacted on September 15, 2012.

5.3.2 Under the terms of Regulation 1684, it agrees not to engage in certain marketing practices that are deemed "solicitation" activities directly targeted to California consumers. Solicitation is defined as "a direct or indirect communication to a specific person or specific persons done in a manner that is intended to and calculated to incite the person or persons to purchase tangible personal property from a specific retailer or retailers." (Section (c)8(E) of Regulation 1684)

5.3.3 However, despite clause 5.3.2, advertising practices, which are passive in nature and do not target Californians specifically, are generally acceptable under Regulation 1684.

5.3.4 Affiliates who have entered into an Affiliate agreement with THEOUTNET.COM in the state of California must certify annually under penalty of perjury that they have not engaged in any prohibited solicitation activities in California at any time during the previous year, and, if the Affiliate in California with whom THE OUTNET.COM has an agreement is an organization, the annual certification shall also include a statement from the organization certifying that the Affiliate Website includes information directed at its members alerting them to the prohibition against the solicitation activities described above.

5.4 . Data Protection

5.4.1 This clause sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the "**Data Discloser**") will regularly disclose to the other party (the "**Data Recipient**") Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

5.4.2. Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.

5.4.3. Each party shall:

5.4.3.1 ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Purposes;

5.4.3.2 give full information to any data subject whose personal data may be processed under this Agreement of the nature of such processing. This includes giving notice that, on the termination of this

Agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

5.4.3.3 process the Shared Personal Data only for the Agreed Purposes;

5.4.3.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

5.4.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less demanding than those imposed by this Agreement;

5.4.3.6 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and

5.4.3.7 not transfer any personal data outside of the European Economic Area unless the transferor ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the General Data Protection Regulation; (ii) there are appropriate safeguards in place pursuant to Article 46 of the General Data Protection Regulation; or (iii) one of the derogations for specific situations in Article 49 of the General Data Protection Regulation applies to the transfer.

5.4.4 Each party shall assist the other in complying with all applicable requirements of Data Protection Legislation. In particular, each party shall:

5.4.4.1 consult the other party about any notices given to data subjects in relation to the Shared Personal Data;

5.4.4.2 promptly inform the other party about the receipt of any data subject access request;

5.4.4.3 provide the other party with reasonable assistance in complying with any data subject access request;

5.4.4.4 not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;

5.4.4.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

5.4.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;

5.4.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the personal data;

5.4.4.8 use compatible technology for the processing of Shared Personal Data to ensure that there is not lack of accuracy from personal data transfers;

5.4.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause; and

5.4.4.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a data security breach.

5.4.6

5.4.6.1 The Affiliate shall transfer, where applicable, their employees' and representatives' personal data (i.e. staff's e-mail addresses) to THEOUTNET.COM for the purpose of sending them details of THEOUTNET.COM's Affiliate Program in the course of this Agreement, provided that the Affiliate has duly informed its employees and representatives of such transfer to THEOUTNET.COM through a Privacy Notice.

5.4.6.2 The Affiliate shall promptly communicate to THEOUTNET.COM when any data subject connected to the Affiliate has objected to the processing of their personal data or has left the Affiliate's company, in order for THEOUTNET.COM to remove them from any distribution list related to the Affiliate Program.

5.4.6.2. THEOUTNET.COM shall have the right, at its own expense, to conduct an audit of the Affiliate's compliance with this Clause 5.4, during normal business hours upon giving reasonable notice. In the event of such audit, the Affiliate shall comply with the reasonable requests of THEOUTNET.COM and provide access to such records.

6 THEOUTNET.COM's Obligations

6.1 THEOUTNET.COM shall, through use of Partnerize's services, keep detailed and up to date records of all Transactions.

7 Affiliate's Indemnity

7.1 The Affiliate undertakes that it will fully indemnify THEOUTNET.COM and keep THEOUTNET.COM fully indemnified against all loss, damages, claims, demands, actions, costs, charges, expenses and liabilities of whatsoever nature which THEOUTNET.COM may suffer or incur as a result of: (I) a breach or negligent performance or failure in the performance by the Affiliate of the terms of this Agreement; and (ii) the Affiliate's breach of any applicable laws, including Data Protection Legislation, in its performance of this Agreement.

8 Affiliate Commission

8.1 Payment of the Affiliate's Commission shall be made by THOUTNET.COM through Partnerize in accordance with the terms of this clause and the terms and conditions of THEOUTNET.COM's agreement with Partnerize.

8.2 THEOUTNET.COM's obligation to pay the Commission shall be discharged by THOUTNET.COM paying Partnerize the Commission and Partnerize shall then be responsible for paying the Commission to the Affiliate on THEOUTNET.COM's behalf. The Affiliate shall accept this payment from Partnerize by the Affiliate as full and final settlement of any and all sums payable by THEOUTNET.COM to the Affiliate under this Agreement.

8.3 The payment of Affiliate Commission will occur as follows:

8.3.1 At the end of each month, THEOUTNET.COM will approve those Transactions which have passed the Returns Period ("**Approved Transactions**") and mark those Transactions which are still within the Returns Period as "pending" ("**Pending Transactions**");

8.3.3 The Affiliate shall then be entitled to raise an invoice in relation to the Approved Transactions only. For any Pending Transactions, the Affiliate will only be able to raise an invoice in respect of such once it has passed the relevant Returns Period for that Transaction and has been approved THEOTUNET.COM.

8.4 Notwithstanding Clause 8.3 above, there may be some cases where Affiliate Commission is paid in error or needs to be recovered from the Affiliate by THEOUTNET.COM in accordance with these terms. In respect of such, the Affiliate agrees that THEOUTNET.COM may request a Chargeback provided that the Chargeback is notified to the Affiliate within 30 days of the payment date of the Affiliate Commission. If a Chargeback is required by THEOUTNET.COM and payment of Affiliate Commission in connection with that Chargeback has already been made, such sum may be deducted from the Affiliate's Commission due for the following month or the Affiliate, may be required to refund the relevant Affiliate Commission.

8.5 The Affiliate agrees that Transactions made for gift card purchases of any value on the THOUTNET.COM Website are not eligible for Commission. Any Transactions resulting from gift card redemptions will be eligible for Commission.

8.6 THEOUTNET.COM shall determine in its sole discretion whether Commission is payable to the Affiliate in respect of any Transaction and shall instruct Partnerize as applicable should any Transaction not qualify for Commission. For the avoidance of doubt this shall include, but not be limited to Commission not being paid on Transactions resulting from the following: 1) Last Touch Emails 2)

THEOUTNET.COM staff orders; or 3) Reseller Sales; or 5) Additional Web Based Tools and Functionality or the Google Comparison Shopping Service (unless expressly permitted under Clause 5.1.5) and/or any other circumstance where THEOUTNET.COM believes that the Commission was obtained by the Affiliate improperly or in bad faith.

8.7 THEOUTNET.COM reserves the right to adjust the Commission at any time and on a case by case basis, especially for Transactions involving sale or promotional items. In such instances, the correct Commission will either automatically be applied or adjustments will be made as required (proactively or retroactively) to ensure the correct Commission is applied.

9 Termination and Effect of Termination

9.1 Notwithstanding Clause 3.1 above THEOUTNET.COM may terminate this Agreement forthwith by giving written notice to the Affiliate if:

9.1.1 the Affiliate commits a material breach of this Agreement (other than a breach of Clause 5), which is capable of remedy, and fail to remedy the breach within 14 days of written notice to do so;

9.1.2 the Affiliate commits a material breach of this Agreement which cannot be remedied;

9.1.3 the Affiliate is repeatedly in breach of this Agreement;

9.1.4 the Affiliate is in breach of any of the warranties set out in Clause 5;

9.1.5 the Affiliate is the subject of a bankruptcy order, or become insolvent, or makes any arrangement or composition with or assignment for the benefit of the Affiliate's creditors, or if the Affiliate goes into either voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over the Affiliate's assets; or

9.1.6 the Affiliate undergoes a change in Control; or

9.1.7 the Affiliate has made any statement or done anything or otherwise conducted themselves in a manner which (in the THEOUTNET.COM's opinion) would or may adversely affect the reputation or perception of THEOUTNET.COM or any brands, products or services owned by or associated with THEOUTNET.COM or brings the THEOUTNET.COM, or the Affiliate into disrepute.

9.2 On termination:

9.2.1 all licences granted by THEOUTNET.COM to the Affiliate under this Agreement will immediately terminate;

9.2.2 The Affiliate shall immediately remove the THEOUTNET.COM Link from the Affiliate's website; and

9.2.3 THEOUTNET.COM shall have no obligation to pay the Affiliate any Commission which is accrued but unpaid as at the date of termination if this Agreement is terminated for any of the reasons set out in Clause 9.1.

10 Confidentiality

10.1 The Parties will at all times keep confidential all Confidential Information acquired in consequence of this Agreement, except for information which becomes publicly available (other than through the actions of the non-disclosing party) or where Confidential Information is bound to be disclosed by law or requested by regulatory agencies or where the Confidential Information is given to professional advisers where reasonably necessary for the performance of their professional services. The provisions of this Clause 10.1 shall survive termination of this Agreement.

11 Remedies

11.1 The remedies available to either Party under this Agreement shall be without prejudice to any other rights, either at common law or under statute, which it may have against the other Party.

12 Costs

12.1 The Parties will bear all their own costs and expenses incurred in connection with this Agreement.

13 Relationship of the Parties

13.1 THEOUTNET.COM and the Affiliate are independent Parties and not the agent, representative or partner of the other Party.

14 Waiver

14.1 The failure of either Party to enforce or to exercise, at any time or for a period of time, any term of or any right arising pursuant to this Agreement does not constitute and shall not be construed as a waiver of such terms or right and shall in no way affect that Party's right later to enforce or exercise it.

15 Severability

15.1 The invalidity or unenforceability of any term of, or any right arising pursuant to, this Agreement shall not in any way affect the remaining terms or rights which shall be construed as if such invalid or unenforceable term or right did not exist.

16 Notices

16.1 Any notices served by the Parties under this Agreement may be sent by email or first class recorded delivery post marked for the attention of the "Affiliate Manager" to the address supplied by the relevant Party to the other Party or to any other address in the United Kingdom that the addressee may notify the other Party of in writing from time to time.

17 Assignment

17.1 This Agreement is personal to the Affiliate and may not be assigned, transferred, sub-contracted or otherwise parted with this Agreement or any right or obligation under it without THEOUTNET.COM's prior written consent.

18 Force Majeure

18.1 Neither Party shall have liability to the other Party to the extent that its performance of its obligations under this Agreement is prevented or hindered due to any circumstances outside its reasonable control.

19 Variation

19.1 This Agreement (or any provision of it) may be amended upon five (5) days written notice by THEOUTNET.COM to the Affiliate signed by a duly authorised representative of THEOUTNET.COM.

19.2 The continued performance of the Affiliate's obligations under this Agreement after the notice period set out in Clause 19.1 has elapsed shall be deemed to be a binding acceptance of such amendments.

20 Entire Agreement

20.1 This Agreement and the THEOUTNET.COM Campaign Page contain all the terms which the Parties have agreed in relation to the subject matter of this Agreement. Neither of the Parties have been induced to enter into this Agreement by a statement or promise which it does not contain save that this clause shall not exclude any liability which one Party would otherwise have to the other in respect of statements made fraudulently.

21 Enforcement by Third Parties

21.1 No person who is not a Party has a right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

22 Law and Jurisdiction

22.1 The construction, validity and performance of this Agreement is governed by the laws of England and the Parties accept the exclusive jurisdiction of the English Courts.