

Effective Date & Last Modified on: February [15], 2018

1. General Provisions

- 1.1. Stylight, Inc., a Delaware corporation and a subsidiary of Stylight GmbH, a German company, together with its parents, subsidiaries, affiliates, successors and assigns (hereinafter “Stylight”) own and operate an online fashion and lifestyle platform located at www.Stylight.com, in addition to other domains including, www.Stylight.ca and www.Stylight.com.mx , and related applications for mobile devices (hereinafter the “Site”).
- 1.2. Stylight assists users of the Site (hereinafter “Users”) in shopping for products and services offered by third party merchants participating - as a “Partner” on the Site with links to Partner’ s independently operated retail website (hereinafter the “Partner Shop”) – included as part of Stylight’ s Services (as defined below). Partner submits to Stylight certain of its independently created product data (including, but not limited to, links, product titles and descriptions, product photos, category terms, and other product related text and images) (hereinafter the “Partner Data”), in order to present its products on the Site and to generate clicks by Users of the Site which will result in the transfer of Users to the Partner Shop (hereinafter the “Product Listing Services”). In addition, Stylight provides Advertising Media (as defined below) on the Site (hereinafter the “Ad Services”), the Product Listing Services and the Ad Services hereinafter collectively the “Services”).
- 1.3. Stylight offers all the Services exclusively on the basis set forth in these Terms and Conditions (“T&C”), [the Privacy Policy located at <http://about.stylight.com>, and the individual terms set out in an Insertion Order which is separately entered into by Partner (“Insertion Order”), all of which shall collectively be deemed to form the agreement (“Agreement”) that shall govern a Partner’ s access to the Site and usage of the Services. By accessing the Site or utilizing the Services, Partner hereby agrees to be bound by the terms of this Agreement as of the “Effective Date” which shall be deemed to be the earliest date upon which: (A) Partner first registers for the Services by executing an Insertion Order; (B) Partner first utilizes the Services; (C) Partner first accesses the Site; or (D) Partner first provides Stylight with any Partner Data to be used in connection with the Site.
- 1.4. Stylight, in its sole discretion, reserves the right to amend this Agreement (or any portion thereof) from time-to-time upon providing thirty (30) days prior notice to the Partner of its intention to do so. Such notice shall highlight the proposed amendments to the Agreement and shall additionally include details of the Partner’ s right to object in writing. If, at the end of the thirty (30) day notice period, Stylight has received no objection in writing from the Partner to the proposed amendments, and/or the Partner continues to utilize any of the Services, the proposed amendments shall take immediate effect and the Partner shall be deemed to have agree to any such amendments in full. The latest version of Stylight’ s T&C shall be posted on the Site at <http://partner.stylight.com/termsinc> and the latest version of the Privacy Policy shall be posted on the Site at <http://about.stylight.com>.
- 1.5. Partner hereby acknowledges that Stylight, in its sole discretion, reserves the right to expand, improve, reduce, suspend or otherwise change the Services at any time where necessary in connection with its legitimate business interests (including to reflect new technological developments, changes of applicable law, or other business reasons). Stylight shall use its reasonable efforts to notify the Partner of any such expansion, improvement, reduction, suspension or other change to the Services.
- 1.6. **PARTNER HEREBY REPRESENTS AND WARRANTS TO STYLIGHT THAT PARTNER HAS READ, UNDERSTOOD AND ACCEPTED THIS AGREEMENT, INCLUDING THESE T&C, THE TERMS OF THE PRIVACY POLICY AND THE TERMS OF THE INSERTION ORDER. IN THE EVENT A PERSON IS SUBMITTING PARTNER DATA ON BEHALF OF A PARTNER THAT IS A COMPANY OR ORGANIZATION (WHICH PERSON SHALL BE IDENTIFIED BY THE EMAIL ADDRESS ASSOCIATED WITH THE ACCOUNT REGISTRATION, OR PARTNER DATA SUBMISSION), SUCH PERSON HEREBY REPRESENTS AND WARRANTS THAT SUCH PERSON HAS THE AUTHORITY TO BIND THE COMPANY OR ORGANIZATION TO THE TERMS OF THIS AGREEMENT.**

2. Terms and conditions regarding the provision of Product Listing Services

2.1. Scope of Product Listing Services

- 2.1.1. Stylight provides the Product Listing Services to the Partner to facilitate the integration of Partner Data into the Site database in order to allow Users of the Site to access the Partner Data under the market categories agreed with the Partner in the Insertion Order (hereinafter "Vertical"). The current Verticals offered by Stylight are "Fashion" (e.g., clothes, shoes, accessories), "Home & Living" (e.g., furniture, lamps, living accessories) and "Beauty" (e.g., cosmetics, cosmetic products). Stylight may create other and/or new Verticals at its sole discretion at any time. Where a User clicks on any Partner Data product details displayed on the Site, such click will result in a transfer of the User from the Site to the respective Partner Shop (hereinafter the "Click").
- 2.1.2. Stylight, in its sole discretion, shall be free to determine the scope, form and manner in which any Partner Data will be presented on the Site, and is under no obligation to ensure that Partner Data will be presented on the Site in any particular form or manner. The Partner hereby acknowledges and agrees that Stylight shall not have any liability whatsoever in connection with any Partner Data, including without limitation, in the event the presentation of the Partner Data on the Site does not meet the Partner's expectations. Except as otherwise provided in this Agreement, Stylight agrees not to change, alter or create derivative works of Partner Data without the Partner's prior written consent, unless Stylight (in its sole discretion) deems it to be necessary in connection with Stylight providing the Product Listing Services pursuant to this Agreement or as otherwise required by Applicable Laws.
- 2.1.3. Stylight shall not be obligated to integrate and present Partner Data on the Site if the products or their presentation do not fit into the product portfolio supported by Stylight and/or Stylight's User group, as the same shall be determined by Stylight in its sole discretion. The Partner further hereby acknowledges and agrees that Stylight, in its sole discretion, shall have the right (but not the obligation) to: (i) review, approve and/or reject any and all Partner Data prior to such Partner Data being used in connection with the Services and that any submission, upload and/or attempted posting of Partner Data by the Partner does not in any way guarantee that such Partner Data shall be utilized in connection with the Services; and/or (ii) remove any Partner Data utilized in connection with the Services at any time, with or without notice to the Partner, regardless of the duration specified in this Agreement or requested by the Partner.
- 2.1.4. Stylight is under no obligation to provide an uninterrupted or error-free availability of the Site or the Services. However, Stylight shall use its reasonable efforts to provide the Product Listing Services with only limited downtimes to generally achieve an overall availability of the Product Listing Services of not less than 99.9% of time per calendar month (hereinafter the "Uptime Availability"). Any interruptions of the Product Listing Services due to reasons beyond the reasonable control of Stylight (including, but not limited to, events of force majeure) shall not be considered a downtime that will reduce the overall Uptime Availability of the Product Listing Services. In the event Stylight fails to use its reasonable efforts to provide the Product Listing Services with the intended Uptime Availability during a given calendar month, and where as a result of such failure of Stylight to use its reasonable efforts the Partner will be under an obligation to pay a Minimum Spending (as defined in Section 2.3.2) for such month (since the number of Clicks generated during this month did not amount to the agreed thresholds), the Partner shall be entitled to reduce the Minimum Spending on a pro-rata basis in relation to the respective deviation from the intended Uptime Availability of the Product Listing Services during such month provided that the Partner notify Stylight of any such failure in writing no later than ten (10) days following the month during which any such failure on the part of Stylight is alleged to have taken place.
- 2.1.5. In addition to the Product Listing Services, Stylight may at its sole discretion provide the Partner with access to the Stylight Tool, as defined and under the terms set forth in Sections 2.3.5 to 2.3.7.

2.2. Obligations of the Partner

- 2.2.1. The Partner hereby represents, warrants and covenants to Stylight that the Partner shall at all times provide Stylight with accurate, truthful, and complete Partner Data relating to all products available on or via its Partner Shop, provided such products can be integrated into the agreed Verticals of the Site. Notwithstanding the foregoing, the parties may mutually agree that the Partner shall only provide Partner Data for an agreed selection of the available products on or via its Partner Shop. Unless agreed otherwise in this Agreement, Partner shall provide the Partner Data within five (5) working days after Stylight's request. In the event, Partner updates any data pertaining to the Partner Data, Partner shall immediately provide Stylight with such updated Partner Data. Notwithstanding anything to the contrary contained in this Agreement, Stylight shall not be liable in any way for any improper implementation of Partner Data that results from or is related to inaccurate, untruthful, incomplete, untimely provided and/or outdated Partner Data.

- 2.2.2. The Partner hereby represents, warrants and covenants to Stylight that: (i) the Partner shall at all times operate its Partner Shop and respective website in accordance with all federal, state, local, and international laws, rules, regulations, ordinances, court orders and other legal process applicable to Stylight and its business, including without limitation the Site and Services (hereinafter “Applicable Laws”) and; (ii) the Partner shall further ensure that the Partner Shop and all Partner Data submitted to Stylight do not violate any Applicable Laws or any rights of third parties (e.g., personality or moral rights, name rights, copyrights and neighboring rights, trademark rights, trade secret, design rights).
- 2.2.3. The Partner hereby represents, warrants and covenants to Stylight that its Partner Shop and/or Product Data does not contain false, misleading or objectionable content (including but not limited to content that is obscene, containing excessive advertisements, defamatory, libelous, threatening, violent, hate-oriented, illegal or promoting illegal activities or goods); and furthermore does not contain viruses, worms, spyware, Trojan horses or other harmful, malicious or destructive code.
- 2.2.4. In the event of a suspected or actual violation of Applicable Laws or third party rights resulting from Stylight's use of the Partner Data for the purpose of providing the Product Listing Services or any other Services in accordance with the terms of this Agreement, the Partner shall notify Stylight in writing immediately and shall also immediately ensure that the respective Partner Data will no longer be submitted to Stylight. This notification shall not affect any rights or potential claims Stylight may have against the Partner as a result of such violation of any Applicable Laws and/or third party rights arising from Stylight's use of the Partner Data for purpose of providing the Product Listing Services or any other Services in accordance with the terms of this Agreement. The Partner hereby agrees to fully indemnify, hold harmless and defend Stylight from any and all costs, claims, losses and/or damages (including, but not limited to, reasonable attorneys fees and costs of legal defense) resulting from any such violation (or alleged violation) of Applicable Laws and/or third party rights.
- 2.2.5. In the event that Stylight receives knowledge that the Partner Shop, any related website and/or the Partner Data violate any Applicable Laws or any third party rights, or in the event there is a reasonable suspicion of such violation (as determined by Stylight in its sole discretion), Stylight shall be entitled to remove the respective Partner Data from the Site and/or to block access to it at any time and without notice to the Partner. The Partner acknowledges and agrees that the blocking of access may apply to the Partner's entire range of products (as presented on the Site) if the violating Partner Data detail cannot be identified and isolated with absolute certainty. The Partner hereby agrees that Stylight shall have no liability to the Partner whatsoever in the event Stylight removes or blocks the Partner's Partner Shop, any related website and/or the Partner Data due to any violation (or suspected or alleged violation) of any Applicable Laws or any third party rights.
- 2.2.6. The Partner is free to demonstrate that the Partner Data provided is legally unobjectionable. In the event Partner has established that its Partner Data is lawful and unobjectionable (as the same shall be determined by Stylight in its sole discretion), Stylight will again grant access to the Partner Data on the Site.
- 2.2.7. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE PARTNER HEREBY ACKNOWLEDGES AND AGREES THAT THE PARTNER IS SOLELY LIABLE FOR THE OFFER, SELLING AND PROCESSING OF ORDERS WITH REGARD TO USERS OF ITS PARTNER SHOP THAT ORIGINATE FROM THE STYLIGHT SITE. WITH REGARD TO ORDERS PLACED ON OR VIA THE PARTNER SHOP, AND ANY RELATED WEBSITE BY USERS FROM THE STYLIGHT SITE, THE CONTRACTUAL RELATIONSHIP IS EXCLUSIVELY BETWEEN THE USER AND THE PARTNER, AND STYLIGHT SHALL NOT BE A PARTY TO (OR IN ANY WAY RESPONSIBLE FOR) ANY SUCH CONTRACTUAL RELATIONSHIP BETWEEN THE PARTNER AND A USER.

2.3. Remuneration and Billing

- 2.3.1. The remuneration to be paid by the Partner for the Product Listing Services is set out in Section I. of the Insertion Order. In addition to remuneration for the Services, Partner shall also be responsible for any/all taxes, including, without limitation, federal, state and local taxes that are applicable to Stylight (with the exception of those taxes solely pertaining to Stylight's revenue).
- 2.3.2. The Partner shall be billed on a monthly basis. The Product Listing Services will be invoiced on the basis of the number of actual Clicks generated during the respective invoice period in accordance with the amounts agreed in the Insertion Order for the selected Vertical(s), Site(s) and device categories. Where the parties have agreed on a minimum spending for the event that the number of Clicks generated during an agreed period does not amount to the agreed thresholds (hereinafter the "Minimum Spending"), the Partner shall pay to Stylight at least the agreed Minimum Spending.

- 2.3.3. The Partner shall not be obliged to pay the Minimum Spending where it can prove that the agreed thresholds have not been achieved exclusively due to Stylight's willful failure to appropriately integrate and present the Partner Data into the agreed Verticals of the Site in violation of the terms of this Agreement.
- 2.3.4. Stylight will issue invoices to Partner setting forth the number of Clicks generated during the relevant invoice period. The remuneration is due and payable after receipt of the invoice and to be paid within 30 days from receipt of the invoice.
- 2.3.5. Stylight establishes the number of Clicks for the invoices, in accordance with Sections 2.3.2 to 2.3.4 above, solely by means of its analysis and reporting tool (hereinafter "Stylight Tool"), which receives the relevant data from the Site database. Stylight does not (and shall not) take the results of any other web analysis tools into account, such as, e.g., Google Analytics or Beezup, as the calculation parameters may change from tool to tool. Partner hereby agrees that the Stylight Tool shall be the sole basis upon which the number of Clicks shall be determined in accordance with this Agreement.
- 2.3.6. Once the Product Listing Services for the Partner are set up and active, the Partner shall receive access to the Stylight Tool and may view the number of Clicks established by this tool at any time. Unless Stylight receives an objection in writing from the Partner by email after publication of the relevant numbers by the Stylight Tool, such written objection to be raised no later than two (2) weeks after the Partner's receipt of the corresponding invoice, the number of Clicks listed in the Stylight Tool shall be deemed accepted by the Partner.
- 2.3.7. If the Partner raises a valid objection in accordance with Section 2.3.6 above, Stylight shall be entitled to obtain an expert opinion of an acknowledged and independent expert selected by Stylight. Such opinion will be binding on both parties. Stylight shall be entitled to suspend provision of the Product Listing Services from the point in time of the objection until receipt of the expert opinion.
- 2.3.8. Payments from the Partner to Stylight shall be made exclusively to the following bank account: Silicon Valley Bank; account no 3301138538; Routing/ABA no 121140399; SWIFT ID: SVBKUS6S

2.4. Grant of Rights of Use, Indemnification

- 2.4.1. With regard to the Partner Data provided to Stylight under this Agreement, the Partner hereby grants to Stylight for the duration of the Agreement (and with respect to Section 2.4.1.3 perpetually) the non-exclusive, world-wide, royalty-free, unrestricted, transferable, and sub-licensable right and license to use the Partner Data - in whole or in part - with regard to all known and unknown forms of use for the following purposes:
 - 2.4.1.1. to perform the Product Listing Services under this Agreement; in particular, Stylight shall be entitled to modify, copy, distribute, make publicly available, broadcast and/or publicly communicate the Partner Data for performing the Product Listing Services under the Agreement, including as necessary to integrate, display and publish the Partner Data on the Site, other websites of Stylight as well as all other online advertising platforms used by Stylight;
 - 2.4.1.2. to advertise Stylight's Product Listing Services, the Site and the Partner Data; in particular, Stylight shall be entitled to use the Partner Data and the content comprised in the data for any form of advertising for Stylight's Product Listing Services, the Site and/or the Partner Data, in unchanged or modified form (without changing the content of the Partner Data), in Stylight's and/or third party online platforms, at paid placement providers (e.g. Google, Yahoo), on social media platforms (e.g. Facebook, Twitter), on posters, in brochures, ads, in picture/film or sound carriers, advertising spots, advertising banners, online ads, demo versions, multimedia shows, test versions or other media ad serving for advertising purposes. Only Stylight and its affiliated companies shall be entitled to any revenues or receipts resulting from the advertising. Prospective Users generated by the advertising may be directed to the Stylight Product Listing Services on the Site or immediately to the product URL provided as part of the Partner Data or any other destination as determined by Stylight in its sole discretion;
 - 2.4.1.3. to use the Partner Data and any of its elements or results for market research purposes; in particular, Stylight shall be entitled to modify, copy, distribute, make publicly available, and/or otherwise use the Partner Data, and to provide it to market research studies for their purposes;
 - 2.4.1.4. to the extent necessary for the above purposes, Stylight shall be entitled to adapt, alter and otherwise modify the Partner Data (without changing the content of the Partner Data) and to archive, copy and store the Partner Data on any medium or database.

- 2.4.2. The grant of rights according to Section 2.4.1 above shall allow Stylight to exercise the rights by itself or have the rights exercised by third party contractors or affiliates acting on behalf of Stylight.
- 2.4.3. In the event of any violation or alleged violation by the Partner of: (i) any of the terms of this Agreement (including any violation of Partner's representations, warranties, covenants or obligations hereunder); (ii) any Applicable Laws; or (iii) any third party rights resulting from Stylight's use (in accordance with this Agreement) of the Partner Data provided to Stylight, the Partner shall be fully liable to Stylight and agrees to fully indemnify, hold harmless and defend Stylight from and against any and all claims, losses, costs and/or damages (including, but not limited to, reasonable attorneys fees and costs of legal defense) in relation to any such violations or alleged violations by Partner.

2.5. Term and Termination

- 2.5.1. Except as otherwise specified in these T&C or as agreed to by the parties in the Insertion Order, this Agreement shall begin as of the Effective Date and shall continue until terminated by either party giving thirty (30) days prior written notice of termination to the other party. The relevant notice period shall commence on the date of receipt of such written notice as specified in Section 8.6 of these T&C.
- 2.5.2. In the event that the Partner has terminated this Agreement by giving thirty (30) days prior written notice to terminate to Stylight, the Partner will not drop product count or make any other changes to the product spending during the remaining duration of this Agreement.
- 2.5.3. The right of Stylight to immediately terminate this Agreement upon its written notice to Partner for good cause remains unaffected. Good cause for termination shall exist, in particular, if:
- 2.5.3.1. the behavior of the Partner in any way jeopardizes Stylight's existing contractual relationships with other Partners of Stylight (as determined by Stylight in its sole discretion);
 - 2.5.3.2. the Partner is in default of payment of the remuneration under this Agreement for two consecutive invoice periods; or
 - 2.5.3.3. the Partner, Partner Shop (or any related websites), or Partner Data violates any terms of this Agreement, any Applicable Laws, or third party rights.

3. Terms and Conditions regarding the provision of Ad Services

3.1. Definitions and contractual conditions

- 3.1.1. "Advertising objective" within the meaning of these T&C is the agreement about the placement of one or more advertising objective(s) in information and communication services, especially the internet, with the aim of distribution via Stylight.
- 3.1.2. The minimum booking volume for an advertising objective in Germany is 3,000 USD net and outside of Germany 1,200 USD net.
- 3.1.3. "Advertising Efforts" are all services offered by Stylight concerning "Advertising Media" as well as any other advertising services.
- 3.1.4. "Advertising Media" can be one or more of the following elements: a picture and/or text; tone sequences and/or moving images (e.g. banner, video) a sensitive screen, which, after a click on it, creates the connection to further data, which have been provided via the Partner via an online address. These data are within the sphere of the Partner (e.g. a link).
- 3.1.5. Advertising Media, which cannot be recognized as such because of their design, will be clearly indicated as advertisement.
- 3.1.6. "Partner" of Stylight in the case of advertising services shall be the immediate contract partner, i.e. either an Agency or an advertiser who enters into an advertising contract directly with Stylight.
- 3.1.7. "Agency or Agencies" are placement agencies, which enter into advertising contracts in their own name and on their own expense. The Agency is responsible for the contractual relationship with the advertiser, especially regarding pricing, invoicing and other conditions. There is no contractual relationship between the advertiser and Stylight. Notwithstanding anything to the contrary contained in this Agreement, Agency hereby agrees that Agency shall be fully liable to Stylight in the event their advertiser violates any terms of this Agreement, including these T&C.

- 3.1.8. Should the Agency act as representative for the advertiser, Agency must inform Stylight about the representation in writing at the latest with the placement of advertising objects, by naming the advertising Partner. If this information is withheld, the contract shall be deemed concluded for and against the Agency.

3.2. Conclusion and Completion of Contract

- 3.2.1. A valid and binding contract shall occur as a matter of principle by written confirmation (also via email) of the order, by Stylight and the terms of these T&C shall be incorporated therein. The contract may either contain the publication of one Advertising Media or of several Advertising Media (conclusion).
- 3.2.2. A campaign is deemed to be completed when the booked Ad Impressions have been reached at all placements. The booked Ad Impressions must be delivered within the time frame of the campaign. A daily and regular delivery will not be guaranteed by Stylight.
- 3.2.3. If the order is not implemented due to reasons which Stylight is not responsible for (e.g., reasons beyond Stylight's control), Partner must replace the financial difference between the granted and the real amount - in accordance with the granted reduction, notwithstanding further statutory duties.
- 3.2.4. In case nothing deviating is agreed upon, Partner has the claim for a reduction which matches the real approval of Advertising Media within one calendar year, if he has concluded a contract at the beginning of the deadline, and which contract grants him a reduction based on a price list. The claim for reduction ceases if it is not claimed within 3 months after the end of the deadline, i.e. one year.

3.3. Delivery and storage of advertising media

- 3.3.1. Partner is obliged to deliver complete, faultless and suitable Advertising Media (as determined by Stylight in its sole and reasonable discretion) no later than three (3) working days prior to the date of placement. In case of special formats and rich media formats the term for delivery is no later than five (5) working days prior to the date of placement. Any deviations must be agreed upon with Stylight immediately and in writing or via e-mail.
- 3.3.2. Costs arising from a change of the Advertising Media which has been requested by Partner or for which Partner is responsible must borne by Partner. Stylight shall not be responsible for any costs in connection with any changes to the Partner's Advertising Media unless such costs are exclusively due to Stylight's violation of the terms of this Agreement.
- 3.3.3. Stylight's obligation to keep the Advertising Media ends three (3) months after the last distribution.

3.4. Retention of rejection

- 3.4.1. Stylight reserves the right to reject or block advertising orders, including, without limitation, single orders within the frame of a conclusion, in the event Stylight (in its sole discretion), has reason to believe that all or any portion of the advertising order violates any Applicable Laws or regulatory provisions, third party rights or if the same is unacceptable to Stylight due to the content, the origin or the technical form.
- 3.4.2. Furthermore, Stylight has the right to recall already published Advertising Media due to the reasons named above, if Partner changes contents or data of the Advertising Media retroactively.
- 3.4.3. The rejection or recall of the Advertising Media will be communicated to Partner immediately.

3.5. Warranty of Partner

- 3.5.1. Partner hereby represents, warrants and covenants to Stylight that Partner has all the necessary rights for the placement of the Advertising Media in accordance with the terms of this Agreement and that the Advertising Media do not violate or infringe upon Applicable Laws, third party rights or the terms of this Agreement. Furthermore, Advertising Media shall not contain pornographic contents, or contents which glorify violence or war or contents which infringe personal rights. Partner hereby agrees to indemnify, hold harmless and defend Stylight from any and all claims, losses, costs and/or damages (including, but not limited to, reasonable attorneys fees and costs of legal defense) which may arise as the result of any breach or alleged breach of this Agreement (including, but not limited to this Section 3.5.1) by Partner or any third parties acting on behalf of Partner. Partner is obliged to support Stylight in good faith with information and documentation by legal defense against third parties, promptly upon Stylight's request and at Partner's sole cost and expense.

- 3.5.2. Partner hereby transfers to Stylight for the duration of this Agreement all usage, ancillary copyrights and any/all other rights and licenses (which licenses shall be non-exclusive, world-wide, royalty-free, unrestricted, transferable, and sub-licensable), necessary for the reproduction, distribution, transmission, broadcast, accessibility, adaptation, extraction from a data bank and for demand, at times and places with any contents necessary for performing the order. These rights and licenses will be transferred in all cases granting the rights for placement with all known technical means as well as all known forms of online media.
- 3.5.3. Partner represents, warrants and covenants that Partner will comply with all Applicable Laws when collecting, distributing and using personal data, if Partner uses special technology, such as cookies or counting pixel for generating or collecting data from the placement of Advertising Media on the online offers of Stylight.
- 3.5.4. Should Partner gather anonymous or pseudonymised data and thus data leading to persons when his Advertising Media delivered to Stylight for online offers are used, Partner may evaluate these data within the framework of each campaign for the concrete advertiser who has been administered with the placement of the relevant campaign, provided that such evaluation is conducted at all times in accordance with all Applicable Laws. This evaluation may only be made with the anonymized and pseudonymised data which have been gathered by advertising placement on the online offers of Stylight.
- 3.5.5. Notwithstanding anything to the contrary contained in this Agreement, Partner hereby represents warrants and covenants that Partner shall not process, use or distribute personal data and data leading to persons gathered from access to online offers which contain the Advertising Media provided by Partner to Stylight. Moreover, Partner hereby agrees not store, exploit or use in any other way data from advertising in online offers of Stylight, or share them with third parties. This prohibition also includes the creation of profiles of the usage behavior of users on the online offers of Stylight and their consequent usage.
- 3.5.6. If Partner uses a system of a third party for the placement of Advertising Media in the online offers of Stylight, Partner hereby agrees to ensure that the third party system operator will comply with the terms of this Agreement and Partner hereby agrees to indemnify, hold harmless and defend Stylight from any and all claims, losses, costs and/or damages (including, but not limited to, reasonable attorneys fees and costs of legal defense) which may arise as the result of any breach or alleged breach of this Agreement by any third parties acting on behalf of Partner.
- 3.5.7. Partner hereby agrees to use software of the highest technical standard, and further represents, warrants and covenants to Stylight that the transmitted or installed Advertising Media is free from harmful code, such as viruses, trojans etc. Section 2.2.1 of this Agreement shall additionally apply to the delivery of Ad-Materials.
- 3.5.8. Partner must be at least 18 years of age in order to register to use the Stylight Services and to create an account. Partner hereby represents and warrants to Stylight that Partner (and all individuals acting on behalf of Partner) are at least 18 years of age and possess the legal right and ability to enter into and perform this Agreement.

3.6. Limited Warranty of Stylight and duties of Partner

- 3.6.1. Subject to Stylight's disclaimer of warranties in Section 4.1 of these T&C and the terms of this Agreement, Stylight warrants, within the framework of the intended requirements, to use its reasonable efforts to deliver a rendition of the Advertising Media, which is reasonably comparable to the respective then-current technical standard. Notwithstanding anything to the contrary contained in this Agreement, Partner hereby acknowledges that, due to current technical standards, it is not possible to create an error-free program and Stylight does not make any warranty that the program shall be error-free. In no event shall Stylight be held liable in connection with any fault or error in the presentation of the Advertising Media, if the impairment is caused by reasons, including without limitation, using an unsuitable presentation software and/or hardware (e.g. browser), by a disturbance within the communication network of other operators, by proxies (buffer store), or by failure of the AdServer, which lasts no longer than 24 hours (in a single instance or in the aggregate) within 30 days after the start of the agreed upon placement. If the failure of the AdServer lasts over an extensive period of time, and if the booking is time-dependent, as Partner's sole and exclusive remedy in connection with the terms of this Agreement, Partner's duty of payment shall be suspended for the duration of the failure. Partner hereby acknowledges and agrees that any further claims against Stylight are hereby excluded.
- 3.6.2. If the rendition quality of the Advertising Media does not match the agreed upon performance or quality stated in this Agreement, Partner, as its sole remedy, shall have the right to an equivalent substitute advertisement which complies with the performance and/or quality terms of this Agreement by prolongation of the publishing time or an immediate substitute placement in a comparative surrounding, but only to such extent as the purpose

of the Advertising Media was diminished. Partner must set a reasonable time limit for Stylight for such substitute placement.

- 3.6.3. If possible deficits of the advertisement records are unapparent (as determined by Stylight in its sole and reasonable discretion), then Partner shall have no claims against Stylight in case of a deficient distribution.
- 3.6.4. The same applies for faults in repeated advertisement placements, if Partner does not point out the fault before the publication of the following advertisement placement.
- 3.6.5. Partner is obliged to examine the advertising measures immediately after first release for defaults and to give information about the fault immediately in written form to Stylight. In case of open defaults this notice must be made within five working days after first placement, in case of hidden faults the same period of time applies after discovery of the fault (or after such fault should have reasonably been discovered).
- 3.6.6. Notwithstanding anything to the contrary contained in this Agreement, Partner hereby acknowledges and agrees that claims for remedies in connection with Stylight's limited warranty shall become time-barred as of the earlier of: (i) the time period specified within this Agreement; or (ii) 12 months from the effective date of this Agreement.

3.7. Default through Stylight

If the implementation of an order fails due to reasons for which Stylight cannot be held responsible, including, without limitation, because of a computer down-time, force majeure, strike, due to legal provisions, disturbances for which third parties can be held responsible (i.e. other providers), network operators or service providers or similar reasons, Stylight shall have the right to perform the implementation of the order at a later date, if possible (as determined by Stylight, in its sole and reasonable discretion). In the event Stylight elects to implement the order within a moderate or reasonable period of time after the settling of the disturbance, Partner shall be responsible to pay Stylight any and all amounts owed pursuant to this Agreement without offset or delay as if no such failure occurred. In case of a considerable delay Partner will be informed thereof.

3.8. Provider's obligation to inform

Insofar as nothing else has been agreed upon, provider is obliged to hold the number of accesses on the Advertising Media within ten (10) working days after the performance of the offer ready for Partner's call.

3.9. Payment terms

- 3.9.1. The applicable remuneration for the advertising order between Stylight and Partner results from the confirmation of the order. Stylight reserves the right to change the remuneration during the term of this Agreement and following a confirmation of the order. Any such change of remuneration will be announced by Stylight at least thirty (30) days prior to the placement of the Advertising Media and Partner shall be deemed to have accepted any such change in remuneration by Stylight unless Partner notifies Stylight in writing to the contrary prior to the first placement of Advertising Media.
- 3.9.2. Stylight reserves the right (in its sole discretion), in case of first engagement with Partner, to require the whole amount (or any part thereof) of the total remuneration due for the advertising offer to be paid in advance of any placement. In the event Stylight has any reason to believe that the solvency of Partner is in question, or if Partner fails to make any payments when due in accordance with the terms of this Agreement, Stylight has the right, at any time during the term of this Agreement, to make the publishing of further Advertising Media dependent on the advance payment in full for the further Advertising Media in addition to requiring the receipt of any unpaid invoices in full, without considering previously agreed terms of payment.
- 3.9.3. In case of late payment or extension for payment Stylight has the right to charge interest for default for the outstanding remuneration up to the maximum amount allowable by Applicable Laws. Furthermore, Stylight reserves the right to stop the implementation of the ongoing order (at any stage) in case of late payment until the payment has been made to Stylight in full, and to demand advance payment for the remaining placement.
- 3.9.4. The billing of campaigns is carried out on the basis of the reporting of the AdServer, which is used by Stylight at the respective point of time. The basis for the billing are Ad Impressions. Complaints concerning the reporting can only be made in writing and during the current campaign's implementation. After the end of the campaign and receipt of the final reports, complaints concerning the billing or the compensation shall not be considered.
- 3.9.5. If the order is placed through an Agency Stylight grants an Agency commission of fifteen percent (15%) of those net revenues of Stylight on amounts actually received by Stylight.

3.9.6. The invoice will be issued on the publishing date of the advertisement. The invoice is due and payable after receipt of the invoice (in accordance with this Agreement) and must be paid within thirty (30) days from receipt of the invoice. Payments shall be made exclusively to the following bank account: Silicon Valley Bank; account no 3301138538; Routing/ABA no 121140399; SWIFT ID: SVBKUS6S (or to the account details as indicated on the invoice)

3.10. Termination of Ad Services

3.10.1. Terminations must be made in written form or via email. Orders can be cancelled until two (2) weeks before the booking starts, ongoing bookings can be cancelled two (2) weeks before the end of the month.

3.10.2. If Partner cancels until one (1) week before the campaign starts, fifty percent (50 %) net of the campaign value will be charged. If the order is cancelled up to three (3) days before the campaign start, cancellation fees of eighty percent (80 %) net of the campaign value will be charged. If the order is cancelled three (3) days or less before the campaign start, one hundred percent (100 %) net of the campaign value will be charged.

4. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY OF STYLIGHT.

4.1. PARTNER HEREBY ACKNOWLEDGES AND AGREES THAT EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, PARTNER'S USE OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO THE SITE, THE PRODUCT LISTING SERVICES, AND/OR THE AD SERVICES IS SOLELY AT PARTNER'S OWN RISK AND THAT PARTNER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE OR LOSS THAT MAY RESULT FROM SUCH USAGE. PARTNER HEREBY AGREES THAT THE SERVICES (INCLUDING, WITHOUT LIMITATION, THE PRODUCT LISTING SERVICES AND THE AD SERVICES) ARE PROVIDED ON AN "AS IS," AND "AS AVAILABLE" BASIS, WITH ALL FAULTS, EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT. STYLIGHT HEREBY EXPRESSLY DISCLAIMS ANY LIABILITY FOR THE PARTNER DATA, ADVERTISING MATERIALS AND OTHER CONTENT SUBMITTED, RECEIVED, POSTED OR TRANSMITTED THROUGH OR INTERMEDIATELY, TEMPORARILY OR PERMANENTLY STORED ON STYLIGHT'S NETWORK, THE SITE, OR ANY SERVER OWNED OR CONTROLLED BY STYLIGHT, AND FOR THE ACTIONS OR OMISSION OF OTHER USERS, OTHER PARTNERS OR PROVIDERS OF THIRD PARTY PRODUCTS AND/OR SERVICES. PARTNER HEREBY ACKNOWLEDGES AND AGREES THAT EXCEPT FOR THE LIMITED REMEDIES EXPRESSLY STATED IN THIS AGREEMENT, STYLIGHT SHALL HAVE NO LIABILITY TO PARTNER, OR TO ANY THIRD PARTY, FOR ANY MODIFICATION, SUSPENSION, DISRUPTION, DISCONTINUANCE OR TERMINATION OF THE SERVICES (INCLUDING, WITHOUT LIMITATION, THE PRODUCT LISTING SERVICES AND/OR THE AD SERVICES), THE SITE OR ANY PART THEREOF, INCLUDING WITHOUT LIMITATION, ANY SERVICE DOWNTIMES OR DISRUPTIONS. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, STYLIGHT EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AUTHENTICITY, COMPLETENESS, AND NON-INFRINGEMENT. STYLIGHT MAKES NO WARRANTIES THAT THE SERVICES (INCLUDING, WITHOUT LIMITATION, THE PRODUCT LISTING SERVICES AND/OR THE AD SERVICES) WILL MEET PARTNER'S REQUIREMENTS, OR THAT THE SERVICES (INCLUDING, WITHOUT LIMITATION, THE PRODUCT LISTING SERVICES AND/OR THE AD SERVICES) OR THE SITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO PARTNER, PROVIDED THAT IN SUCH INSTANCES, STYLIGHT'S WARRANTIES SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY SUCH JURISDICTION'S LAWS.

4.2. PARTNER HEREBY EXPRESSLY AGREES THAT STYLIGHT'S TOTAL AGGREGATE LIABILITY TO PARTNER OR ANY THIRD PERSON, AND PARTNER'S AND ANY THIRD PERSON'S EXCLUSIVE REMEDY, IN LAW, IN EQUITY, OR OTHERWISE, WITH RESPECT TO THE SERVICES (INCLUDING, WITHOUT LIMITATION, THE PRODUCT LISTING SERVICES AND/OR THE AD SERVICES), AND THE SITE PROVIDED UNDER THIS AGREEMENT AND/OR FOR ANY BREACH OF THIS AGREEMENT IS SOLELY LIMITED TO RECOVERY OF AN AGGREGATE AMOUNT NOT TO EXCEED THE ACTUAL AMOUNT WHICH STYLIGHT ACTUALLY RECEIVED FROM PARTNER AS A NET FEE (IF ANY) FOR SERVICES PROVIDED DURING THE THIRTY (30) DAYS PRIOR TO THE DATE UPON WHICH THE CLAIM OR LIABILITY ACTUALLY AROSE. STYLIGHT, ITS SUBSIDIARIES, PARENT, AFFILIATES, LICENSORS (OTHER THAN PARTNER) AND CONTRACTORS AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MANAGERS, MEMBERS, EMPLOYEES, CONTRACTORS, AGENTS, SUCCESSORS AND ASSIGNS (HEREINAFTER COLLECTIVELY THE "STYLIGHT GROUP") SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF REVENUE OR LOSS OF PROFITS RESULTING FROM THE SERVICES EVEN IF ANY STYLIGHT GROUP PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT THAT A STATE OR COUNTRY DOES NOT PERMIT THE EXCLUSION OR LIMITATION OF LIABILITY AS SET FORTH HEREIN, THE STYLIGHT GROUP'S LIABILITY IS HEREBY LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW IN SUCH STATES OR COUNTRIES.

5. Set-Off, Right of Retention, Assignment

- 5.1. The parties may only set-off claims against counterclaims that are uncontested or have been finally confirmed by a res judicata judgment.
- 5.2. The parties may exercise a right of retention only if the counterclaims are based on the same contractual relationship.
- 5.3. The Partner shall not be entitled to assign and transfer the rights and obligations under this Agreement in full or in part without the prior written consent of Stylight, such consent not be unreasonably withheld.
- 5.4. Stylight shall be entitled to assign and transfer the rights and obligations under this Agreement in full or in part to any third party.

6. Confidentiality; Press Releases

- 6.1. Except as provided in Section 6.3, each party shall treat this Agreement as confidential.
- 6.2. Except as provided in Section 6.3, the parties shall treat as confidential all non-public information, particularly technical and business information, whether written or oral, of the other party they received in the course of this Agreement, or which they otherwise obtained in the course of the cooperation under this Agreement (the “Confidential Information”) and shall use such Confidential Information only for the purpose of (and as permitted by) this Agreement, shall give access only to its employees who need to have access, and shall not pass it on to third parties, except that the Confidential Information may be disclosed by the parties to their affiliates, provided that such affiliates will enter into or are already subject to similar confidentiality obligations, and shall protect it against unauthorized use by third parties, or as otherwise required by law or in connection with any legal proceeding.
- 6.3. No confidentiality obligation shall apply to information and documents:
 - 6.3.1. which are already known to, or in the possession of the receiving party prior to receipt of any Confidential Information;
 - 6.3.2. which are legally received by a party from a third party without any confidentiality obligation;
 - 6.3.3. which are in the public domain or enter the public domain through no wrongful act of the receiving party; or
 - 6.3.4. which can be proven by the receiving party to have been developed independently of Confidential Information received from the other party.
- 6.4. The Parties shall impose the same obligations on their affiliates and their affiliates' employees, who obtain knowledge of Confidential Information, unless those employees are already bound to the same degree by their contracts of employment to maintain confidentiality.
- 6.5. The party providing Confidential Information shall remain the owner of such information. Nothing contained in this Agreement shall be construed as granting or conferring any patent rights or licenses, either expressly or by implication, unless otherwise provided in this Agreement.
- 6.6. Neither party may make any initial public statement regarding the relationship contemplated by this Agreement without the other party's prior written approval.

7. Stylight Intellectual Property Rights

- 7.1. Stylight and its licensors own all right, title and interest to the Site, the Services, all content included therein and all derivatives thereof and intellectual property rights related thereto. Stylight shall also have sole ownership of all IP addresses and Internet addresses provided by Stylight to access the Services, and all modifications, ideas, concepts, enhancements or recommendations provided by Users and Partners to Stylight concerning the Site, the Services or the Stylight business by any means of communication. Partner hereby acknowledges and agrees that this Agreement does not convey or transfer any ownership rights in the Site, the Services or any content included therein to Users, Partner or any third parties. The Stylight name, logo, and any other trade names are trademarks of Stylight and no right is granted to use them except as otherwise expressly granted herein.
- 7.2. Partner hereby agrees that Partner will not, directly or indirectly, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of, the Services or the Site.

8. Miscellaneous

- 8.1. **This Agreement and any disputes hereunder shall be governed in all respects by and construed in accordance with the laws of the State of New York, United States of America, excluding its conflicts of laws rules. Partner and Stylight each hereby submit to the exclusive subject matter jurisdiction, exclusive personal jurisdiction and exclusive venue of the United States District Courts in the Eastern District of the Commonwealth of Pennsylvania, specifically located in Philadelphia, Pennsylvania, for any disputes between Partner and Stylight under or arising out of this Agreement. If there is no jurisdiction in the United States District Court for the Eastern District of Pennsylvania, in Philadelphia, Pennsylvania, for any disputes between Partner and Stylight under or arising out of this Agreement then Partner and Stylight hereby expressly agree that jurisdiction shall be in the state courts of Philadelphia County, Pennsylvania. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. THE PARTIES HEREBY WAIVE ANY RIGHT TO JURY TRIAL WITH RESPECT TO ANY ACTION BROUGHT IN CONNECTION WITH THIS AGREEMENT.**
- 8.2. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.
- 8.3. Subject to Section 1.4, any amendments or additions to the Agreement must be made in writing or in text form (e.g., email) to be effective. This shall also apply to any waiver of this form requirement.
- 8.4. In the event this Agreement terminates for any reason whatsoever as provided herein, Sections 1.3, 1.4, 1.5, 1.6, 2.1.2, 2.1.3, 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.7, 2.3.4, 2.3.5, 2.3.6, 2.3.7, 2.4 (all subparts), 2.5 (all subparts), 3.1.7, 3.2.1, 3.2.3, 3.4.1, 3.5 (all subparts), 3.6.1, 3.6.3, 3.6.6, 3.7, 4 (all subparts), 5.4, 6 (all subparts), and 7 (all subparts), and 8 (all subparts) of this Agreement shall survive such expiration or termination.
- 8.5. Should any provision of this Agreement be or become invalid or unenforceable in whole or in part, the remaining provisions of this Agreement shall remain unaffected. The parties will agree on a provision to replace the invalid or unenforceable provision that from a legal and factual point of view comes as close as possible to the economic purpose of the invalid or unenforceable provision. The above shall apply accordingly in case of any gaps or ambiguities in this Agreement. In the event of a conflict between these T&C and any other portion of this Agreement, these T&C shall govern and control in resolving such conflict.
- 8.6. Except as expressly provided otherwise herein, all notices to Stylight (including, without limitation, any notices concerning our compliance with the Digital Millennium Copyright Act of 1998, 17 U.S.C. Sec. 512) shall be in writing and delivered via overnight courier or certified mail, return receipt requested to:

Stylight INC.
1900 Market Street, 8th floor
Philadelphia, PA 19103

Stylight shall serve notices related to this Agreement by sending them to Partner at the postal address or e-mail address given to Stylight upon registration or submission of Partner Data or Advertising Materials in accordance with the terms of these T&C. Notices sent by mail shall be deemed received five days after they were sent. Notices sent by e-mail or as a text message shall be deemed received on the working day following the day when they were posted or sent, provided sender does not receive a "failure to deliver" notice.