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## PLAYOUT – TERMS & CONDITIONS

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### Background

Outsmart Out of Home Limited is the owner and operator of the PLAYOUT tool to manage Out-of-Home advertising playout data in the United Kingdom (“**Playout**”). These Terms & Conditions set out the terms under which Media Owners, Buy Side Subscribers and Users are permitted to access Playout, upload Media Owner Data and / or download Playout Data. Please read these Terms & Conditions carefully and ensure that you understand them before agreeing to subscribe to or use Playout. You will be required to read and accept these Terms & Conditions, by signing where indicated below, before you can subscribe to or use Playout, upload Media Owner Data and / or download Playout Data.

### 1. Definitions and Interpretation

1.1 In these Terms & Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Agreement”</b>	means the agreement between the Owner and the Media Owner or Buy Side Subscriber (as applicable) pursuant to which the Owner agrees to provide access to Playout on the terms set out in these Terms & Conditions;
<b>“Authorised Purposes”</b>	shall have the meaning ascribed in Clause 7.2;
<b>“Buy Side Subscriber”</b>	means any individual, company or business which is not entering into the Agreement and / or accessing Playout as a Media Owner (e.g. an advertiser, advertising agency or specialist);
<b>“Confidential Information”</b>	means the information contained in Playout, information concerning Playout and the System, information relating to the services, Media Owner Data, Playout Data, access credentials for a User Account and any other information which is described as, or is by its nature, confidential (whether or not labelled as such);
<b>“Data Protection Legislation”</b>	means all applicable laws and regulations relating to the processing of personal data and privacy, including the EU’s General Data Protection Regulation (2016/679/EC) and UK Data Protection Act 2018, and all laws and regulations implementing or made under them and any amendment or re-enactment of them;
<b>“Effective Date”</b>	means the date on which these Terms & Conditions are signed by or on behalf of the Media Owner or Buy Side Subscriber (as applicable);
<b>“Fees”</b>	means the fees payable by: (i) a Media Owner to access Playout and upload Media Owner Data; or (ii) a Buy Side Subscriber to access Playout and download Playout Data, (as applicable) in each case as set out in the Schedule;
<b>“Initial Term”</b>	means the initial subscription term for the Media Owners (but not Buy Side Subscriber) as set out in Clause 13 of these Terms & Conditions;
<b>“Intellectual Property”</b>	means all vested, contingent and future intellectual property rights including but not limited to copyright, trademarks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created;
<b>“Media Owner”</b>	means an Underwriting Media Owner, Non-Underwriting Media Owner (Outsmart Member) or Non-Underwriting Media Owner (Non-Outsmart Member);

<b>“Media Owner Data”</b>	means the data which is uploaded by a Media Owner evidencing the playout of Out-of-Home advertising campaigns on the Media Owner’s advertising inventory;
<b>“Non-Underwriting Media Owner (Outsmart Member)”</b>	means an Outsmart Member that is not an Underwriting Media Owner;
<b>“Non-Underwriting Media Owner (Non-Outsmart Member)”</b>	means a media owner selling Out-of-Home advertising inventory in the UK that is not an Outsmart Member;
<b>“Outsmart Member”</b>	means an individual, company or business that is a member of the Outsmart Membership Scheme;
<b>“Outsmart Membership Scheme”</b>	means the membership scheme operated by the Owner;
<b>“Owner”</b>	means Outsmart Out of Home Limited, a company registered in England & Wales with company number 01642847 whose registered office address is 33 Golden Square, London, England, W1F 9JT;
<b>“Playout Data”</b>	means the Media Owner Data uploaded by Media Owners evidencing the playout of Out-of-Home advertising campaigns contained in and accessible to the Buy Side Subscribers via Playout;
<b>“Subscription Term”</b>	has the meaning given in Clause 13, being the Initial Term together with any subsequent Renewal Terms in respect of a Subscriber;
<b>“System”</b>	means the Owner’s computer system and any software and / or other system technology through which Playout is accessed;
<b>“Underwriting Media Owner”</b>	means an Outsmart Member that has funded the build and ongoing servicing and maintenance costs of Playout, namely: (i) JCDecaux Limited; (ii) Clear Channel UK Limited; (iii) Ocean Outdoor Limited; and (iv) Global Outdoor Media Limited; and
<b>“User”</b>	means any individual authorised by the Media Owner or Buy Side Subscriber (as applicable) to access Playout in accordance with these Terms & Conditions. Users may include, for example, employees, consultants, contractors and agents of the Media Owner or Buy Side Subscriber (as applicable).

- 1.2 Unless the context otherwise requires, each reference in these Terms & Conditions to:
- 1.2.1 “writing” includes a reference to any communication effected by email or similar means;
  - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 1.2.3 “these Terms & Conditions” is a reference to these Terms & Conditions and each of the Schedules as amended or supplemented at the relevant time;
  - 1.2.4 a Schedule is a schedule to these Terms & Conditions; and
  - 1.2.5 a Clause or paragraph is a reference to a Clause of these Terms & Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
- 1.3 The headings used in these Terms & Conditions are for convenience only and shall have no effect upon the interpretation of these Terms & Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.

## 2. The Agreement

- 2.1 The Agreement shall commence on the Effective Date.
- 2.2 Under the Agreement, the Owner agrees to provide access to Playout and to the Playout Data on these Terms & Conditions. These Terms & Conditions shall accordingly govern:

- 2.2.1 the access to Payout and the uploading of Media Owner Data by Media Owners; and
- 2.2.2 the access to Payout and the use of any Payout Data by the Buy Side Subscribers.
- 2.3 Certain of the terms set out in these Terms & Conditions apply only to: (i) Media Owners and not to Buy Side Subscribers; or (ii) Buy Side Subscribers and not to Media Owners. Where a term applies only to Media Owners or Buy Side Subscribers (as applicable) only, this is made clear on the face of that term.

### 3. **Access to Payout**

- 3.1 In order to access Payout, each User will be provided with an account (a “**User Account**”) and applicable user access credentials (e.g. username, password or other security information) (“**Access Credentials**”). Access Credentials constitute Confidential Information and may not be disclosed to anyone other than the relevant User.
- 3.2 If the User knows or suspects that an unauthorised person or third party knows or has access to the Access Credentials, the User shall immediately notify the Owner by email at [info@outsmart.org.uk](mailto:info@outsmart.org.uk).
- 3.3 The Owner shall have the right to suspend or terminate a User’s access to Payout and / or disable any Access Credentials at any time if in the Owner’s reasonable opinion the User has failed to comply with any of the provisions of these Terms & Conditions.
- 3.4 The Owner may from time to time make amendments to Payout, to any software or programs which form a part of Payout or the System or to any other associated material or facilities under its control.
- 3.5 The Owner may suspend or withdraw or restrict the availability of all or any part of Payout for business and operational reasons. The Owner will try to give the Media Owner or Buy Side Subscriber (as applicable) reasonable notice of any suspension or withdrawal.

### 4. **Uploading Media Owner Data**

- 4.1 Media Owner Data shall consist of information uploaded to Payout by Media Owners evidencing the payout of Out-of-Home advertising campaigns on their advertising inventory.
- 4.2 Media Owners who upload Media Owner Data shall:
  - 4.2.1 ensure that the Media Owner Data uploaded by them is accurate;
  - 4.2.2 not deliberately or negligently upload incorrect or misleading Media Owner Data;
  - 4.2.3 keep the said Media Owner Data updated; and
  - 4.2.4 if they become aware that the said Media Owner Data is inaccurate, where such functionality is available via the System, promptly correct that Media Owner Data.
- 4.3 A breach by a Media Owner of its obligations under Clause 4.2 shall be a material breach of the Agreement, entitling the Owner to terminate the Agreement under Clause 14.3.2.
- 4.4 Media Owner Data which is uploaded by Media Owners is not reviewed by or on behalf of the Owner, and the Owner accepts no responsibility for the content and / or accuracy of that Media Owner Data.
- 4.5 Once the Media Owner Data is uploaded, the Media Owner Data shall then be accessible to the relevant Buy Side Subscribers as part of the Payout Data referred to in Clause 6. It shall be the responsibility of the Media Owner to identify the relevant Buy Side Subscriber able to see each item of Media Owner Data.

### 5. **Licence for Owner to use the Media Owner Data**

- 5.1 The Media Owner Data uploaded by Media Owners in accordance with Clause 4 shall be considered confidential and proprietary. Media Owners shall retain ownership of the content of the Media Owner Data.
- 5.2 The Media Owner shall grant to the Owner a limited licence to use, store and copy the content of its Media Owner Data and to distribute it and make it available to the Buy Side Subscribers through Payout as part of the Payout Data.
- 5.3 The Media Owner shall grant the Owner a limited licence to use its Media Owner Data and Payout Data for the following purposes:

- 5.3.1 the preparation of industry wide reports (provided that the Media Owner Data / Payout Data is aggregated into forms that do not identify individual Media Owners and/or Buy Side Subscribers); and
- 5.3.2 econometric modelling (subject to Media Owners' prior written permission).

## 6. Access to and responsibility for Payout Data

- 6.1 Payout is made available to the Buy Side Subscriber through the System.
- 6.2 The Buy Side Subscriber shall have access to the Payout Data relevant to its Out-Of-Home advertising campaigns contained in Payout on the terms set out in these Terms & Conditions.
- 6.3 The Payout Data shall consist of Media Owner Data uploaded by Media Owners in accordance with Clause 4.
- 6.4 The Owner is accordingly not responsible for the content and / or accuracy of the information contained in the Payout Data. Each Media Owner, and not the Owner, is solely responsible for verifying and, where such functionality is available via the System, updating the Payout Data contained in Payout regarding that Media Owner's advertising inventory.

## 7. Licence to Use the Payout Data

- 7.1 The Owner hereby grants to the Buy Side Subscriber a limited, revocable, non-exclusive licence to access Payout and to use the Payout Data for Authorised Purposes only (the "**Payout Data Licence**").
- 7.2 Authorised Purposes for the purposes of Clause 7.1 shall include purposes which are integral to the Buy Side Subscriber's principal business, being:
  - 7.2.1 monitoring the performance of Out-of-Home advertising campaigns; and
  - 7.2.2 presenting the Buy Side Subscriber's clients with analyses of the Payout Data.
- 7.3 The Buy Side Subscriber may not under any circumstances, without the express written consent of the Owner:
  - 7.3.1 re-sell the Payout Data;
  - 7.3.2 use the Payout Data for any other business or for any purpose other than an Authorised Purpose listed in Clause 7.2; or
  - 7.3.3 use the Payout Data in any fashion which may infringe or otherwise prejudice the proprietary rights of the Owner.
- 7.4 The Payout Data Licence referred to in Clause 7.1 shall be non-transferable, save that the Buy Side Subscriber may grant a limited, revocable, exclusive sub-licence to the Buy Side Subscriber's sub-contractor to access and use the Payout Data, provided that the said sub-contractor only access and use the Payout Data for the Buy Side Subscriber's Authorised Purposes and for no other purpose.
- 7.5 The Owner shall have the right to revoke the Payout Data Licence and / or the Buy Side Subscriber's access to Payout at any time if in the Owner's reasonable opinion the Buy Side Subscriber has failed to comply with the provisions of this Clause 7, including but not limited to circumstances where the Buy Side Subscriber has accessed or used the Payout Data otherwise than for an Authorised Purpose.
- 7.6 The Payout Data Licence shall be immediately revoked on termination of the Agreement.

## 8. Use of the Payout Data

- 8.1 Save as provided in Clause 7, the Buy Side Subscriber may not allow any third party to access the Payout Data without the prior written consent of the Owner.
- 8.2 The Buy Side Subscriber shall only allow those of its employees and / or subcontractors who require access for the Authorised Purposes to access and / or use Payout.
- 8.3 When using the Payout Data, the Buy Side Subscriber may be required to use reasonable skill and judgement. The Buy Side Subscriber hereby warrants and represents that it has such skill and is able to exercise suitable judgement in its use of the Payout Data.
- 8.4 Use of the Payout Data may, under certain circumstances, be subject to obligations and

regulations that fall outside the scope of this Agreement including, but not limited to, statutes and codes of practice. The Buy Side Subscriber hereby warrants and represents that it shall comply with any such obligations and regulations applicable in the United Kingdom.

## **9. Subscribers, Fees and Payment**

- 9.1 The Fees are payable by the Media Owner or Buy Side Subscriber (as applicable) in accordance with the amounts set out in the Schedule and in accordance with this clause 9.
- 9.2 Invoices for the Fees shall be invoiced as follows:
  - 9.2.1 the Annual Subscription Fees shall be invoiced by the Owner annually in advance; and
  - 9.2.2 the AWS Fees shall be invoiced by the Owner monthly in arrears.
- 9.3 Payment of the Fees shall be made to the Owner by Media Owner or Buy Side Subscriber (as applicable) within 14 days of receipt of a valid invoice, in accordance with the instructions for payment contained in that invoice.
- 9.4 In the event that the Media Owner or Buy Side Subscriber (as applicable) fails to pay an invoice within the required 14 day time period, the Owner shall have the right (at the Owner's sole discretion) to suspend or terminate the Media Owner's or Buy Side Subscriber's (as applicable) access to Payout.
- 9.5 The Owner shall not be liable for any delays or claims arising out of the Media Owner's or Buy Side Subscriber's (as applicable) inability to access Payout, upload Media Owner Data or access the Payout Data (as applicable) due to any suspension or termination of access rights under Clause 9.4.
- 9.6 The Owner reserves the right to vary the Fees from time to time.
- 9.7 Any variations of the Annual Subscription shall take effect on the expiry of the existing Initial Term or Renewal Term, as the case may be, unless the Media Owner exercises their right to terminate under Clause 14.

## **10. Intellectual Property**

- 10.1 Unless otherwise expressly indicated, all Intellectual Property rights subsisting in the System, Payout, the Payout Data and any other related materials are the property of the Owner.
- 10.2 In the absence of the Owner's express written permission to the contrary (where the Owner has the authority to do so), the User shall not use the System, Payout or the Payout Data in any manner which is inconsistent with the provisions of the Copyright Designs and Patents Act 1988, the Trade Marks Act 1994 or any other Intellectual Property legislation applicable within the United Kingdom, or any equivalent legislation internationally.
- 10.3 Payout is compiled, updated and amended using Media Owner Data provided by Media Owners. The Owner owns the Intellectual Property rights in the contents of Payout and the Payout Data only to the extent that those Intellectual Property rights are not owned by the said Media Owners.
- 10.4 The Owner has invested and shall continue to invest substantial time and resources in the selection and arrangement of Payout and in the obtaining, verification and presentation of its contents. Payout is an original intellectual creation. The Owner therefore owns the copyright in the selection and arrangement of the contents of Payout and in the additional materials and software required for its operation.
- 10.5 Unless it is expressly authorised to do so by these Terms & Conditions (or by the Owner, in writing), the Buy Side Subscriber may not reproduce, adapt, translate, arrange, redistribute or otherwise make any part of Payout or its contents available to any third party, either directly or indirectly.
- 10.6 Unless it is expressly authorised to do so by these Terms & Conditions, the Buy Side Subscriber may not extract or re-utilise the contents of Payout for any commercial purposes including, but not limited to, the resale of the Payout Data.
- 10.7 In the event that the Buy Side Subscriber breaches any of the provisions contained in this Clause 10, both civil and criminal penalties may be incurred. In addition to such penalties, the Owner shall be entitled to immediate injunctive relief in order to restrain any activity (actual or suspected) which infringes any of the rights detailed in this Clause. The Buy Side Subscriber shall fully indemnify the Owner against any and all damage, loss, costs and expenses which may result from any such infringement.

- 10.8 The Buy Side Subscriber shall ensure that the notice: “© Outsmart Out of Home Limited (year). All Rights Reserved.” is included in any and all information produced from Payout or by the use of the Payout Data whether such information is in electronic or hard copy form.

## 11. Confidentiality

- 11.1 Each party undertakes that, except as provided by sub-Clause 11.2 or as authorised in writing by the other party, it shall, at all times during the continuance of this Agreement and for 2 years after its termination:
- 11.1.1 keep confidential all Confidential Information;
  - 11.1.2 not disclose any Confidential Information to any other person;
  - 11.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms & Conditions;
  - 11.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 11.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that party, would be a breach of the provisions of sub-Clauses 11.1.1 to 11.1.4 above.
- 11.2 Either party may:
- 11.2.1 disclose any Confidential Information to:
    - 11.2.1.1 any sub-contractor or supplier of that party;
    - 11.2.1.2 any governmental or other authority or regulatory body; or
    - 11.2.1.3 any employee or officer of that party or of any of the aforementioned persons;to such extent only as is necessary for the purposes contemplated by these Terms & Conditions, or as required by law, and in each case subject to that party first informing the person in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 11.2.1.2) obtaining a written undertaking from the person in question, as nearly as practicable in the terms of this Clause, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
  - 11.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is or becomes public knowledge through no fault of that party.
- 11.3 The provisions of this Clause 11 shall continue in force, notwithstanding the termination of the Agreement for any reason.

## 12. Liability and Indemnity

- 12.1 The Owner make no representation or warranty about Payout or the System, including any representation that Payout or the System will be uninterrupted or error free. The Owner provides Payout and the System on an “as is” and “as available” basis. To the fullest extent permitted under all applicable laws, the Owner disclaims any implied or statutory warranty, including any implied warranty of title, accuracy of data, non-infringement, merchantability or fitness for a particular purpose.
- 12.2 The Owner makes no representations, warranties, guarantees (whether express or implied) that the Payout Data or any other information on Payout is accurate, complete or up to date. Payout contains information which has been uploaded by Media Owners, and which has not been verified by the Owner.
- 12.3 In the event that any errors or inaccuracies are brought to the Owner’s attention, it shall use its reasonable endeavours to remedy the same as soon as reasonably possible.
- 12.4 The Owner shall not be liable for any direct, indirect or consequential loss or damage sustained by the Media Owner or the Buy Side Subscriber as a result of using the System, Payout or the Payout Data (whether such use is direct or indirect).
- 12.5 Losses for which the Owner shall not be liable under Clause 12.4 include, but are not limited to those arising out of:

- 12.5.1 defects, failures or interruptions in the System or Payout; or
- 12.5.2 errors or inaccuracies in the Payout Data or Payout.
- 12.6 The total liability of the Owner under this Agreement to the Media Owner or Buy Side Subscriber shall be limited to the total of the Fees payable by the Media Owner or Buy Side Subscriber (as applicable) in the relevant year.
- 12.7 The Owner shall not be liable for, and shall not indemnify the Media Owner or Buy Side Subscriber against any costs, liability, damages, loss, expenses, claims or proceedings in respect of any injury or damage whatsoever incurred either directly or indirectly unless otherwise required by law.
- 12.8 The Media Owner or Buy Side Subscriber (as applicable) shall be liable for, and shall indemnify the Owner against any costs, liability, damages, loss, expenses, claims or proceedings in respect of any loss or damage whatsoever incurred as a result of:
  - 12.8.1 any breach by the Media Owner or Buy Side Subscriber (as applicable) of any of these Terms & Conditions; or
  - 12.8.2 any use by the Media Owner or Buy Side Subscriber (as applicable) (whether in accordance with these Terms & Conditions or otherwise) of the System, Payout, or the Payout Data.
- 12.9 In the event that the Media Owner or Buy Side Subscriber (as applicable) makes any gain from any breach of these Terms & Conditions, notwithstanding any other remedies to which the Owner shall be entitled, the Media Owner or Buy Side Subscriber (as applicable) shall be required to indemnify the Owner for any loss suffered as a result of such breach and shall be required to reimburse the Owner for any such gain.

### 13. **Subscription Term**

- 13.1 This Clause 13 applies only to Media Owners.
- 13.2 The Media Owner shall enter into the Agreement for the Initial Term of 1 year. The Initial Term shall commence on the date that the System, Payout and the Payout Data become available to the Media Owner.
- 13.3 The term of the Agreement shall continue from year to year thereafter (each a “**Renewal Term**”), with each Renewal Term commencing on the anniversary of the commencement of the Initial Term, unless or until terminated in accordance with Clause 14.

### 14. **Termination**

- 14.1 A Media Owner shall have the right to terminate the Agreement on the expiry of the Initial Term (or a Renewal Term, as the case may be), but not otherwise.
- 14.2 A Buy Side User shall have the right to terminate the Agreement at any time by providing written notice of termination to the Owner.
- 14.3 The Owner shall have the right to terminate the Agreement immediately if the Media Owner or Buy Side Subscriber (as applicable):
  - 14.3.1 has failed to pay any Fee due in accordance with Clause 9;
  - 14.3.2 has committed any other material breach of these Terms & Conditions;
  - 14.3.3 goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets; or
  - 14.3.4 ceases to carry out business.
- 14.4 In the event of termination of the Agreement under this Clause 14:
  - 14.4.1 the Media Owner's or Buy Side Subscriber's (as applicable) access to Payout shall be terminated with immediate effect;
  - 14.4.2 the Licences referred to in Clauses 5 and 7 shall be terminated with immediate effect, and the Media Owner or Buy Side Subscriber (as applicable) shall immediately cease

to use (for any purpose) any Playout Data accessed, transferred or stored during the term of the Playout Data Licence; and

14.4.3 the Playout Data generated from the Media Owner Data uploaded that that Media Owner shall remain accessible to relevant Buy Side Subscribers as Playout Data..

14.5 Any and all rights and obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Agreement shall survive termination under this Clause 14.

**15. Assignment, sub-contracting and third parties**

15.1 The Owner may assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with its rights and obligations under the Agreement.

15.2 The Media Owner or Buy Side Subscriber (as applicable) may not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with its obligations and rights under the Agreement, save as provided for elsewhere in these Terms & Condition or with the Owner's written consent.

15.3 The Agreement is between the Parties, and is not intended to benefit or confer any rights on any other person. Accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

15.4 Subject to the above provisions of this Clause 15, the Agreement shall continue and be binding on the parties' transferees successors and assigns, as required.

**16. Notices**

16.1 All notices under these Terms & Conditions shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the party giving the notice.

16.2 Notices shall be deemed to have been duly given:

16.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or

16.2.2 when sent, if transmitted by e-mail and a successful return receipt is generated; or

16.2.3 on the third business day following mailing, if mailed by national ordinary mail, postage prepaid.

16.3 All notices under these Terms & Conditions Agreement shall be addressed to the most recent address or e-mail address notified to the other party.

**17. Force Majeure**

Neither party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure; internet service provider failure; industrial action; civil unrest; fire; flood; storms; earthquakes; acts of terrorism; acts of war; governmental action; or any other event that is beyond the control of the party in question.

**18. Severance**

In the event that one or more of the provisions of the Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of the Agreement. The remainder of the Agreement shall be valid and enforceable.

**19. Entire Agreement**

19.1 These Terms & Conditions contain the entire agreement and understanding between the parties and supersede all prior oral or written agreements, understandings or arrangements relating to the subject matter of the Agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in these Terms & Conditions, save for any representation made fraudulently.

19.2 Unless otherwise expressly provided elsewhere in these Terms & Conditions, the Agreement may be varied only by a document signed by both of the parties.



**20. Data Protection**

- 20.1 All personal data that the Owner and the Media Owner or Buy Side Subscriber (as applicable) may use will be collected, processed, and held in accordance with the provisions of the Data Protection Legislation.
- 20.2 For complete details of the Owner’s collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of data subjects’ rights and how to exercise them, and personal data sharing (where applicable), please refer to the Owner’s Privacy Policy (as updated from time to time).

**21. Amendments to the Terms & Conditions**

- 21.1 The Owner reserves the right to amend these Terms & Conditions from time to time.
- 21.2 The Media Owner or Buy Side Subscriber (as applicable) will be notified of any material amendments made under this Clause 21 and shall be deemed to be bound by those changes 30 days after receipt of that notice.
- 21.3 If the Media Owner or Buy Side Subscriber (as applicable) does not agree to be bound by any changes made under this Clause 21, the Media Owner or Buy Side Subscriber (as applicable) may terminate the Agreement in accordance with Clause 14.

**22. No Waiver**

No failure by either party to enforce the performance of any provision in the Agreement shall constitute a waiver of the right to subsequently enforce that provision or any other provision of the Agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

**23. Law and Jurisdiction**

- 23.1 The Agreement (including these Terms & Conditions, any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 23.2 Any dispute, controversy, proceedings or claim between the parties relating to the Agreement (including these Terms & Conditions, any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

By signing below, you confirm that you have read these Terms & Conditions and agree to be legally bound by them.

SIGNED by:

**(Authorised signatory of Media Owner or Buy Side Subscriber (as applicable))**

Name:  
 Position:  
 Date:

**Media Owner / Buy Side User details**

Company Name	
Registered Address	
Registered Number	
Media Owner [Yes / No]	
Buy Side Subscriber [Yes / No]	

## SCHEDULE

### Fees

Subscriber Type	Annual Subscription Fee	AWS Fees
<i>Media Owners</i>		
Underwriting Media Owner	N/A	<p>The AWS Fees for using Amazon Web Services (“<b>AWS</b>”) are calculated based on the percentage share of data rows by all Media Owner users of Payout.</p> <p>The AWS Fee for data uploaded per month is estimated at \$2.50* for every 1 million rows uploaded by the Media Owner (excluding VAT).</p> <p>By way of example: A Media Owner uploading 40,000,000 rows in a month will incur AWS Fees in that month of \$100 (excluding VAT)</p> <p><math>(40,000,000 / 1,000,000) \times 2.50</math></p>
Non-Underwriting Media Owner (Outsmart Member)	<p>Base Fee: £2,400 (plus VAT) per annum</p> <p>Additional Fee: £2,400 times PMS (plus VAT) per annum</p> <p>PMS = the relevant Media Owner’s Out-of-Home market share percentage</p>	
Non-Underwriting Media Owner (Non-Outsmart Member)	<p>Base Fee: £990 (plus VAT) per annum for up to 100 advertising assets</p> <p>Additional Fee: £990 (plus VAT) per annum per 100 advertising assets (rounding upwards to the next 100 advertising assets)</p> <p>By way of example: A Non-Underwriting Media Owner with 425 advertising assets will pay £4950 (excluding VAT).</p>	
<i>Buy Side Subscribers</i>		
Buy Side Subscribers	N/A	<p>Buy Side Subscribers downloading Payout Data via Amazon S3 will not incur AWS Fees. For the avoidance of doubt, Payout Data downloaded by a Buy Side Subscriber may only be downloaded once free of charge; subsequent downloads of the same Payout Data will incur a data cost.</p> <p>Buy Side Subscribers downloading Payout Data via Java Database Connectivity or Open Database Connectivity will incur AWS Fees of \$0.19 per GB of Payout Data downloaded per month (excluding VAT). The first 350GB of Payout Date per month shall be free.</p> <p>By way of example: A Buy Side Subscriber downloading 375GB of Payout Data in a month will incur AWS Fees in that month of \$4.75 (excluding VAT)</p> <p><math>(375 - 350) \times 0.19</math></p>
Other third party that is not a Media Owner or a Buy Side Subscriber (subject to Owner board approval)	£10,000 (plus VAT)	

\* The estimated AWS fee is contingent upon the ongoing commitment of Payout’s “Underwriting Media Owners” providing their data to Payout. Additionally, this estimate is subject to adjustment when AWS modify their rates.