

## ADVERTISER LISTINGS SYNDICATION AGREEMENT

This ADVERTISER LISTINGS SYNDICATION AGREEMENT (the "Agreement") is entered into on the date of the application being submitted to Brainbox Digital and the individual or entity named in the online application to participate in Brainbox Digital's Traffic Partner Program located at <https://www.brainboxdigital.com/sign-up/> ("Online Application") submitted by the prospective partner ("Partner") and between: Brainbox Digital Limited with Address at: "17 Gresse Street, London W1T 1QL", Vat number: 143951409 Registered in United Kingdom number 8176733.

### **Partner Company Name and Address**

WHEREAS, Brainbox Digital operates an advertiser service located in which online advertisers list their websites and bid on keywords in order to attract visitors searching for their products and services (the "Brainbox Digital Service");

WHEREAS, Partner operates a site entity named in the Online Application ("Partner Service").

WHEREAS, Partner desires to include Brainbox Digital's paid advertiser listings within results displayed on the Partner Service and Brainbox Digital desires to enable such integration of its advertiser listings under certain terms and conditions;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows

#### **Definitions:-**

**"Accepted Countries"** means the following countries: Great Britain; Ireland, France, Germany, Denmark, Sweden, Netherlands, Italy, Spain, United States of America and Spanish Speaking Latin America (partner must advise of which countries they require feeds for ); Brainbox Digital will only accept and credit Partner for Referrals originating from IP addresses from Accepted Countries, the determination of which shall be based solely on Brainbox Digital's proprietary tracking and validation technology. Brainbox Digital retains the right to change its list of Accepted Countries at any time by providing Partner with three (3) days prior written notice of such change.

**"Destination Page"** means the Brainbox Digital advertiser's webpage accessed by an Internet User by clicking on a Brainbox Digital Advertiser Listing.

**"Click-Through Revenue"** means the total amount of money generated by Brainbox Digital or a designated amount to be determined in Brainbox Digital's discretion for Referrals under the terms of this Agreement and also from any provider Brainbox Digital has integrated now or wishes to integrate at any point in the future.

**"Internet User"** shall mean a natural person, performing a Query. Searches and clicks generated by hit bots, robots, spiders, scrapers, multiple clicking scripts, zeroframes, iframes, IRC cheats, or other software programs which may now exist or which may be developed in the future for artificially generating Internet searches or clicks, or any other mechanical or manual means of artificially generating Internet searches or clicks, shall be specifically excluded in the definition of Internet User.

**"Partner Affiliate"** shall mean a website that distributes the Partner Service or refers Internet Users to the Partner Service that are approved by Brainbox Digital to receive the Brainbox Digital Results. Prior to providing any Partner Affiliate with the Brainbox Digital Advertiser Listings, Partner shall submit a written request for approval to Brainbox Digital, which request shall include the name, website URL address, proposed implementation date, and anticipated query volume of each proposed Partner Affiliate. Brainbox Digital shall provide a written approval or disapproval within twenty five (25) business days of receipt of such request from Partner. Brainbox Digital shall have the absolute right to approve,

conditionally approve or disapprove any proposed Partner Affiliate, at its discretion, or to terminate Partner Affiliates at any time subsequent to approval.

**“Partner Site”** shall mean the default Internet home page that is located at the site the entity named in the Online Application

**“Query”** shall mean a bona fide English-language or the particular language of the site Internet search initiated by an Internet User on the Partner Site (or on a Partner Affiliate, if applicable) by actively entering single keywords or keyword phrases into a box or by clicking on a text-based link. The Query, which shall not be modified by Partner in any way, generates Brainbox Digital Results (if available) that are relevant to such Query.

**“Referral”** occurs when an Internet User from an Accepted Country conducts a Query and clicks on a Brainbox Digital Advertiser Listing and accesses a Destination Page. Searches and clicks that are incentivised in any way (whether for monetary compensation or other form of direct or indirect compensation), created as a result of a so-called “cheat group,” or generated by any form of SPAM, including unsolicited email, newsgroups, ICQ, unauthorized adjustment of browsers shall not be counted as Referrals. The determination of whether a Referral occurs shall be based solely on Brainbox Digital’s proprietary tracking and validation technology.

**“Brainbox Digital Advertiser Listing”** means an advertisement and URL hyperlink (with tracking code) that is drawn from Brainbox Digital’s proprietary advertiser database and/or through its third party relationships in response to a Query for the purpose of generating a Referral.

**“Brainbox Digital Feed”** shall mean the feed, or other mutually acceptable form of technical implementation, that enables the Partner (and the Partner Affiliates, as applicable) to present the Brainbox Digital Results in response to an Internet User’s query.

#### **1. Implementation.**

1.1 Brainbox Digital will provide Partner with access to the Application Programming Interface (the “API”) for the Brainbox Digital Feed and shall provide commercially reasonable assistance to Partner in completing the implementation of the Brainbox Digital Feed. The web pages containing Brainbox Digital Results shall be served and hosted by Partner or by the Partner Affiliate (as applicable). The database and search algorithm (and any modifications thereto) used to generate the Brainbox Digital Results are proprietary to Brainbox Digital and shall remain entirely within Brainbox Digital’s control. Brainbox Digital retains the right to modify the content of the Brainbox Digital Results, as well as the underlying database and algorithm, at its absolute discretion without providing any notice to Partner.

1.2. **Traffic Increases.** Partner will provide Brainbox Digital with seven (7) days prior written notice of any increase in volume that Partner reasonably anticipates will increase Partner’s then-current traffic volume by twenty-five percent (25%) or more.

1.3. **Partner Payment.** Brainbox Digital shall pay Partner a total of Fifty percent (50%) of the Revenue received by [Brainbox Digital.com](http://Brainbox Digital.com) on a monthly basis (the “Partner Revenue”). The Partner Revenue shall be paid within Sixty working days (60) of the close of the month in which the Partner Revenue was earned under the terms of this Agreement, this excludes revenues generated via Pricerunner, which will be paid within forty-five days (45) of the close of the month in which the Pricerunner revenue was earned. For clarity partner revenue excludes performance bonuses, tier payments, uplift bonuses or other additional revenues earned or negotiated at any time by Brainbox Digital at a network or country level with feed providers. If Brainbox Digital terminates this Agreement, final payment may be delayed for as long as sixty (60) additional days in cases in which the number of Referrals has not been validated to the satisfaction of Brainbox Digital. In such cases where overpayment has been deemed to be paid by Brainbox Digital to Partner, Brainbox Digital shall deduct that amount from the following months Partner Payment. For the relevant VAT jurisdictions, Brainbox Digital and Partner hereby acknowledge and agree that Brainbox Digital shall provide Partner with a value added tax (“VAT”) invoice. Partner agrees not to raise any VAT invoices with respect to the revenue due to it pursuant to this Agreement. Brainbox Digital will complete invoices showing the Partner address, VAT Registration number, together with all details which constitute a full VAT invoice. Partner agrees to notify Brainbox Digital in the event Partner ceases to be registered under the VAT number delineated in this Agreement,

transfers or sells its business or becomes registered under a different VAT number. Brainbox Digital agrees to make a new agreement in the event that the Partner's VAT registration changes. In the event Brainbox Digital intends to outsource responsibility for issuing VAT invoices under this Agreement to a third party, Brainbox Digital shall notify the Partner of such outsourcing

## **2. Term.**

2.1 This Agreement shall commence upon the Effective Date and subject to clause 5 shall continue in full force for twelve months (12) and will renew for further periods of twelve months (12) unless written notice of termination is received by Brainbox Digital at least 90 Days prior to the end of the initial twelve month period or thereafter prior to the end of the relevant subsequent twelve month period.

2.2 This Agreement shall automatically terminate if Partner has not implemented the Brainbox Digital Feed within thirty (30) days of the Effective Date.

2.3. **Effects of Termination.** Upon termination of this Agreement, each party shall disable the Brainbox Digital Feed for the Partner and Partner Affiliates (as applicable) and the license granted hereunder by Brainbox Digital and the Licenses granted hereunder shall cease, except as the parties may agree in writing.

2.4 **Exclusivity.** This agreement is intended to create an exclusive relationship between the parties that would limit the ability of either party to enter into similar agreements with third parties. Specifically shopping and e commerce related websites.

## **3 Licenses.**

3.1 **Database License.** During the Term of this Agreement, and subject to the terms and conditions contained in this Agreement, Brainbox Digital hereby grants to Partner a royalty free, non-transferable, non-exclusive license, to (i) use, transmit, integrate, display and distribute the Brainbox Digital Results (the "Content") via the Partner Service, to Internet end-users on the Partner Site, and (ii) subject to the terms hereof, sublicense the Content to Partner Affiliates, provided that such Partner Affiliates shall enter into a written contract with Partner by which the same license and trademark limitations and restrictions are placed on Partner Affiliates as are placed hereby on Partner. The rights granted by Brainbox Digital hereunder, including without limitation the license regarding the Content, are limited to the display and distribution as part of the Partner Service.

3.2 **Trademark License.** During the Term of this Agreement, each party hereby grants to the other party a non-exclusive, non-sub-licensable, non-transferable, royalty-free right and license (the "Trademark License") to use, display and reproduce such party's name, logo, trademarks and service marks (the "Trademarks"), solely for the purposes of displaying and maintaining the Brainbox Digital Service and Partner Service as set forth in this Agreement. Each party acknowledges that the other party's Trademark is and will remain the exclusive property of such party and all use by each party of any Trademark will inure solely to the benefit of the owning party. Neither this Agreement nor any rights granted hereunder will operate as a transfer of any rights in or to any Trademark, except for the limited rights expressly granted under this Agreement. No party will take any action that would undermine, conflict with, or be contrary to the intellectual property rights and interest of the other party, including, without limitation, any use of, or attempt to register, any trademark, service mark or trade name substantially similar to any other party's Trademark.

3.3. **Content & Data Ownership.** Brainbox Digital shall retain all right, title and interest in, to and under the API, Content, algorithm and related technology, and all traffic data collected under this Agreement. Brainbox Digital will retain all right, title and interest in, to and under the intellectual property included in the Content (including, without limitation, ownership of all copyrights and other intellectual property rights therein). Other than as expressly set forth herein, Partner and its agents, officers, directors, employees, related parties, affiliates and representatives will not (i) sell, resell, rent, license, sublicense, transfer, assign or redistribute in any way the Content except as

may be expressly permitted herein; or (ii) attempt to reverse engineer, decompile, disassemble or otherwise attempt to derive any of Brainbox Digital's Content, algorithms, databases, computer programs, ontology, directory structure, patents, copyrights, or other proprietary rights or Brainbox Digital's methodology related to the creation and compilation of Brainbox Digital URLs from the Content or any other information furnished to Partner by Brainbox Digital, or permit any third party to attempt any of the foregoing.

#### **4. Online Reporting; Books & Records; Auditing.**

4.1. **Online Reporting.** Brainbox Digital shall provide Partner with a username and password that allows Partner to access a secure, web-based online reporting interface that details the number of Referrals and the corresponding Revenue generated by the Partner through the date and time of the report ("Partner Reports"). The Online Reporting is an estimate of revenue and not the actual amount, the Partner Reports are subject to revision at any time prior to the issuance of payment to the Partner, based on Brainbox Digital's proprietary month-end validation processes. Brainbox Digital shall determine, at its exclusive discretion, the number of Referrals generated by the Partner, and the corresponding amount of Partner Revenue.

4.2 Where [Brainbox Digital.com](https://www.brainboxdigital.com) becomes aware that it has paid Partner Payment in respect of internet user traffic which is not from Query it shall be entitled to deduct the relevant amount of such Partner Payment from the next payment of Partner Payment due.

#### **5. Payment.**

5.1. Payments shall be made in Pounds Sterling (GBP) unless otherwise requested by the Partner, however we can only make payment in Pounds Sterling (GBP) Euro's (€) and USD (\$). The Partner Revenue payable by Brainbox Digital shall include all sums in respect of value added tax or any similar sales tax ("VAT") as may be properly chargeable by the Partner under this Agreement. The determination of whether a Referral occurs shall be based solely on Brainbox Digital's proprietary tracking and validation technology

#### **6+7 .Representations and Warranties.**

6.1. Each party represents and warrants to the other that: (a) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out its provisions; (b) it is duly authorized to execute and deliver this Agreement and to perform its obligations; and, (c) this Agreement is valid and legally binding upon it and the execution, delivery and performance of this Agreement by such party does not conflict with any other agreement, instrument or understanding to which it is a party or by which it may be bound nor would violate any law or regulation of any court, governmental body or agency having jurisdiction over it.

6.2 Partner warrants that it will use commercially reasonable efforts to ensure that the Partner Site and all approved Partner Affiliate web sites, and the content contained thereon, will not be, or contain any material that is, obscene, pornographic, profane, fraudulent, libelous or defamatory, or infringing of any intellectual property rights, privacy rights or other rights of any third party.

**6.3. DISCLAIMER.** BRAINBOX DIGITAL AND PARTNER EACH DISCLAIM ALL WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, OR STATUTORY TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR USE, NONINFRINGEMENT AND THAT THE BRAINBOX DIGITAL RESULTS AND/OR THE BRAINBOX DIGITAL FEED WILL BE UNINTERRUPTED OR ERROR-FREE. NEITHER PARTY SHALL BE RESPONSIBLE FOR ANY CONTENT PROVIDED BY THIRD PARTIES (INCLUDING ADVERTISERS), OR FOR ANY THIRD PARTY SITES THAT CAN BE LINKED TO OR FROM SUCH PARTY'S WEB SITE. IN ADDITION, BRAINBOX DIGITAL DISCLAIMS ALL LIABILITY OF ANY KIND OF BRAINBOX DIGITAL'S ADVERTISERS, LICENSORS AND OTHER SUPPLIERS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER PARTY MAKES ANY WARRANTIES WITH RESPECT TO ITS SERVICES

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**6.4. LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR (I) INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM SUCH PARTY'S PERFORMANCE OR NON-PERFORMANCE UNDER ANY PROVISION OF THIS AGREEMENT OR THE PROVISION OF SUCH PARTY'S SERVICES (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS, OR (II) ANY AMOUNT IN EXCESS OF THE AMOUNT PAYABLE BY PARTNER DURING THE FIRST YEAR OF THE TERM. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THIS SECTION SHALL NOT LIMIT EITHER PARTY'S LIABILITY TO THE OTHER FOR NEGLIGENTLY CAUSE DEATH OR PERSONAL INJURY OR FRAUD NOR ITS LIABILITY FOR WILLFUL AND MALICIOUS MISCONDUCT, BREACH OF CONFIDENTIALITY OBLIGATIONS, OR FULFILLMENT OF ANY INDEMNIFICATION OBLIGATIONS HEREUNDER.

**6.5 No Indemnification.** Brainbox Digital will not, under any circumstances whatsoever, indemnify Partner for any losses which Partner may suffer arising out of or in connection with this Agreement.

**6.6 Confidentiality.** The parties shall maintain the terms and conditions of this Agreement confidential. All information furnished to or shared with a party by the other party with regard to this Agreement or a party's business, unless such information is known by the general public, will be kept confidential by a party and shall not be disclosed to any third party except: (i) at the written consent of a party; (ii) to the extent necessary to comply with any law, regulation or valid order of a court or agency of competent jurisdiction; (iii) as a part of a party's normal reporting requirements to its auditors and attorneys; or (iv) to the extent necessary to permit the performance of a party's obligations under this Agreement or to enforce a party's rights under this Agreement.

**6.7. Press Release.** Neither party shall issue any press release in connection with this Agreement without the other party's prior written consent. The content of such press release or announcement shall be subject to the approval of Brainbox Digital, which approval shall be exercised at Brainbox Digital's exclusive discretion. Excluding disclosures that may be required by law, neither party shall disclose any other terms of this Agreement to any person or entity without the prior approval of the other party. Notwithstanding the foregoing and subject to any confidentiality obligations imposed upon a party under this Agreement, (i) Brainbox Digital shall have the right to notify its advertisers and potential advertisers of the general nature of this transaction, (ii) both parties shall be entitled to provide additional disclosures containing any and all information contained in any previously agreed disclosure or press release, and (iii) both parties shall be entitled to list the other party's name in advertising and other materials. When determining whether a disclosure is "required by law" both parties may rely on their respective legal counsels' advice on such matters.

**6.8. Independent Contractors.** The parties and their respective personnel are and shall be independent contractors and neither party by virtue of this Agreement shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.

**6.9. Assignment.** Neither party may assign its rights, duties or obligations under this Agreement to any person or entity, in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld.

**7.0 Amendment.** Amendment of any provision of the agreement either be done by (a) in a written amendment that is agreed upon and signed by both parties, or (b) email contract updates and acceptance assumed if no objection within 14 days.

**7.1 Waiver.** No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof.

**7.2 Notices.** All notices shall be in writing and shall be deemed to be delivered when received by certified mail, postage prepaid, return receipt requested, or when sent by facsimile or e-mail confirmed by call back. All notices shall be directed to the parties at the respective addresses indicated on the signature page hereof or to such other address as either party may, from time to time, designate by notice to the other party.

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**7.3 Compliance with Law.** Each party shall be responsible for compliance with all applicable laws, rules and regulations, if any, related to the performance of its obligations under this Agreement.

**7.4 Choice of Law.** This Agreement shall be construed and controlled by the laws of the UK. Any dispute arising in connection with this Agreement, including, without limitation, a breach of this Agreement, shall be governed by the laws of England. The parties agree to submit to the non-exclusive jurisdiction of the English courts.

**7.5 Headings.** The headings of the sections of this Agreement have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Agreement, or be used in any manner in the interpretation of this Agreement.

**7.6 Counterparts.** This Agreement may be entered into by each party in separate counterparts and shall constitute one fully executed Agreement upon execution by both Partner and Brainbox Digital.

**7.7 Prior Understanding.** This Agreement constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter hereof, superseding all prior or contemporaneous proposals, communications and understandings, oral or written save that neither party excludes or limits its liability for fraudulent misrepresentation.

**7.8 Interpretation.** Whenever the context so requires in this Agreement, all words used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a joint venture, a trust, an estate or any other entity.

**7.9 Partial Invalidity.** Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability, unless such provision or such application of such provision is essential to this Agreement.

**8.0 Force Majeure.** If the performance of any part of this Agreement by either party, except for the obligation to pay amounts payable hereunder, is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, act of God or any other causes beyond the reasonable control of either party, that party shall be excused from such to the extent that it is prevented, hindered or delayed by such causes.

Brainbox Digital Limited. 17 Gresse Street, London W1T 1QL	Partner:
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By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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