

## GENERAL TERMS AND CONDITIONS SHOPPING PUSH – BUSINESS PLAN

These general terms and conditions ('Terms and Conditions') govern the contract between Twenga, a French Simplified Joint Stock Company with a share capital of €281, 257.25, whose registered office is located at Chez WeWork - 4 Rue Jules Lefebvre, 75009 Paris, registered in the Paris Trade and Companies Register under number 492 315 627, and your company (the 'Vendor').

Hereinafter jointly referred to as the 'Parties'.

### PRELIMINARY SECTION – DEFINITIONS

**'Twenga'**: means Twenga Company, which notably operates the website [www.twenga.it](http://www.twenga.it) (the 'Twenga Website(s)') and variations of the website in various other countries.

**'Vendor'**: a company that offers on its website (the 'Vendor's Website(s)') products and/or services.

**"Tracking Tool"**: refers to the Twenga tracking pixel configured with or without a dedicated subdomain.

**"Service"**: The service offered by Twenga with the Shopping Push Business Plan solution is a paid traffic listing and acquisition service proposed by Twenga to the Vendor. The Shopping Push Business Plan solution requires the submission of a standard product feed.

**'Twenga Network'**: The Twenga Network includes the Twenga Website(s) as well as the current and future services associated with the website. The Twenga Network also includes other media such as social networks and platforms for buying and selling advertising space, including Google Shopping. Within the context of the Service, Twenga broadcasts, at its discretion, on the whole or part of the Twenga Network, some or all information concerning the products proposed by the Vendor and/or that identify the Vendor. This information is intended for Internet users and enables them (i) to access the web pages hosted by Twenga on which additional information about the Vendor's products is displayed and/or (ii) to directly access the Vendor's Website.

**'Click or Clicks'**: any action by an Internet user who clicks on one of the Vendor's offers and who is then redirected to the Vendor's Website via the Twenga Network. This includes any redirection from the Twenga Network to the Vendor's Website, even if, for reasons beyond Twenga's control, the Internet user cannot subsequently effectively access the Vendor's Website.

**'Valid Click' or 'Valid Clicks'**: any Click counted as valid by Twenga's technical platform, each of which will be invoiced to the customer.

**'Cost per click' or 'CPC'**: the cost of each Valid Click.

**'Vendor's Account' or 'Account'**: the Vendor's personal space on Twenga Solutions extranet site.

**'Contract'**: these Terms and Conditions, and, where applicable, the Special Terms and Conditions signed by the Parties.

**'Maximum Monthly Budget'**: an optional service for capping the monthly budget. Once this limit has been reached, the Vendor's offers will be temporarily removed until the end of the reference period (month). This service is accessible via the Vendor's Account. It will not apply retroactively and will be activated as quickly as possible following a request to that effect.

**'Vendor's Catalogue'**: all the products and/or services that the Vendor wishes to list on the Twenga Network.

**'Activity Monitoring Platform'**: Twenga will place at the Vendor's disposal technology that can be used to monitor activity generated by the Twenga Network and its Services on the Vendor's Website in terms of Clicks. Once the Vendor has registered, Twenga will give the Vendor secure access to the activity monitoring platform.

**'Feed Technique'**: the exportation of the whole or part of the Vendor's catalogue in XML or CSV format.

**"Sale(s)"**: any purchase made by an online user on the Vendor's Site(s), subject(s) of this Contract, following a "Click".

## ARTICLE 1 – PURPOSE OF THE CONTRACT

The Contract defines the terms and conditions according to which Twenga will provide the Vendor with a paid listing and traffic generation service on the Twenga Network, including in particular the services described in Article 3 of these Terms and Conditions.

The terms defined in these Terms and Conditions apply to the entire Contract.

This Contract supersedes the previous Listing Contract and any supplemental agreements thereto.

## ARTICLE 2 – ENTERING INTO THE CONTRACT

To finalise the Contract, the Vendor accepts the General Terms & Conditions as well as any Specific Conditions. The agreement will take effect subject to satisfactory verification of the Client's payment details by Twenga, and technical validation by Twenga of its ability to use the Service.

## ARTICLE 3 – THE SERVICE

The Service includes the following in particular:

### 3.1 – Product Listings

The Vendor's Catalogue will be listed on completion of the installation process. The Vendor's products and/or services will then appear on the Twenga Network and Internet users will be able to access the Vendor's Website by clicking on the corresponding hypertext links (text links, logos, photos, widgets, etc.) appearing on the Twenga Network.

Twenga cannot guarantee that the Vendor's entire Catalogue will be listed. Twenga has no obligation to list all the products and/or services included in the Vendor's Catalogue. Nonetheless, Twenga will endeavour to list as many items as possible.

### 3.2 – Monitoring Activity

The counting of Clicks or any other event, resulting from the use of the Service and serving as a basis for the calculation of the commission due to Twenga by the Vendor, will be carried out by Twenga. Twenga will provide the Vendor with a report which will prevail between both parties and establish proof of Clicks and/or Valid Clicks resulting from the use of the Service and serving as a basis for calculating the commission as defined in article 5 of the Contract.

In order to monitor sales activity, the Vendor needs to install, should they wish to, the Tracking Tool on the Vendor's Website. The Twenga Tracking Tool must be the first tracking script used on the source code page.

## ARTICLE 4 – CONTRACT TERM

The Contract will take effect as stipulated in Article 2 above. It is entered into for an indefinite term and may be terminated by either party at any time, via the Vendor's Account, by registered mail, by e-mail sent to [contact@twengasolutions.com](mailto:contact@twengasolutions.com), subject to a seven (7) business day notice period.

## ARTICLE 5 - FINANCIAL TERMS

## 5.1 – Dynamic pricing

In return for the use of the Service, the Vendor will pay Twenga an amount for each Valid Click made by an online user towards the Vendor's Site(s). The Parties agree that Twenga may apply different CPCs for each Click. The applied CPC will be set dynamically by Twenga in an ongoing permanent search for opportunities.

The Merchant will define a monthly budget, for a minimum amount of one hundred and fifty (150) euros before tax.

## 5.2 – Validating the Tracking Tool

During the Tracking Tool validation process completed by Twenga, the Vendor agrees to provide all the information and access required to enable Twenga's staff to ensure that the Tracking Tool is operating effectively. It must be possible to fully test the Tracking Tool.

## 5.3 - Payment terms

The Vendor will be debited by Twenga on a bi-monthly basis for the fees owed to Twenga.

If a payment is declined or fails, Twenga reserves the right to immediately suspend the Vendor's listing until such time as the outstanding amount is paid. If Twenga does not receive payment within three (3) days of the payment default, the Vendor's Account will be restricted and the Vendor may only use the Account to pay invoices.

Various direct debit payment options will be offered to the Vendor when they register and are accessible via the Vendor's Account.

Twenga may immediately and automatically charge late-payment interest at three (3) times the legal interest rate on the outstanding amount as from the first day of delay until such time as payment is made, as well as a fixed debt collection charge of forty (40) euros pursuant to French Decree No 2012-1115 of 2 October 2012.

## ARTICLE 6 – VENDOR'S ACCOUNT

In order to benefit from the Service, the Vendor must register online, by completing the designated form on Twenga Solution website.

The Vendor must complete all the fields marked as mandatory. Incomplete registration forms will not be considered. The Vendor warrants that all the information provided in the online form is accurate and is in no way misleading. Should any change occur, the Vendor agrees to promptly update its information via its account or to contact Twenga's support team via the support form.

After having completed the form, the Vendor will be directed to its Account on Twenga's extranet site. The Vendor's registration will be finalized once the Contract has been accepted, a method of payment has been provided and approved, and Twenga has approved the technical aspects of the Vendor's application. An e-mail will be sent to the Vendor at the address provided in the registration form, containing a username and password for the Account.

The Vendor is solely responsible for the use of the username and password used to access its Account. If the Account is accessed using the Vendor's username and password, it will be deemed to have been accessed by the Vendor, and any changes made and operations carried out on the Account will be deemed to have been made and carried out by the Vendor. The Vendor is solely responsible for keeping its password confidential.

When the Vendor logs into and uses its Account, it accepts that entering its username and password will constitute proof of the Vendor's identity.

The Vendor must immediately inform Twenga if its password is disclosed to a third party and/or if it is used fraudulently.

## ARTICLE 7 – REGISTERING AND MONITORING ACTIVITY / AGREEMENT ON PROOF

The number of Valid Clicks, and, if applicable the number of Sales, the number of products or services sold by the Vendor

and other events resulting from the provision of the Service and used as a basis to calculate the fees owing to Twenga will be counted by the Activity Monitoring Platform used by Twenga. The results recorded by the Activity Monitoring Platform will be authoritative between the parties and will constitute proof of the number of Valid Clicks and potentially the number of products or services sold by the Vendor and other events resulting from the provision of the Service and used as a basis to calculate the price.

Generally, the parties acknowledge that the information system put in place by Twenga can be used to retain a trace of the information transmitted and operations carried out by the Vendor on its Account, particularly a trace of any consent given or operation carried out by the Vendor on its Account.

Twenga is responsible for correctly calculating and recording the number of Net Clicks used for invoicing purposes.

By entering into the Contract, the Vendor expressly accepts that all electronic data, regardless of the medium in which it is recorded, particularly login information, electronic files, usernames, times and dates, messages, e-mails, etc. will be fully binding on the Vendor. Accordingly, the Vendor agrees not to dispute the admissibility, validity or enforceability of such proof on the grounds that it is in paperless format.

## ARTICLE 8 – THE PARTIES' OBLIGATIONS

### 8.1 – The Vendor's obligations

#### a) Accuracy of information

When entering into the Contract, the Vendor agrees to provide Twenga with complete and accurate information concerning it. Should this information change, the Vendor must immediately inform Twenga accordingly in writing or by logging into its Account.

If the parties use the Feed Technique for the Service, the Vendor agrees to send Twenga up-to-date information which corresponds to that appearing on the Vendor's Website.

#### b) Updating the products and/or services offered by the Vendor

The Vendor must provide Twenga with complete and up-to-date information concerning the products and services offered on the Vendor's Website, particularly information on prices. Under no circumstances will Twenga be liable for an error, a delay in the provision of information or a delay in the listing of products and/or services.

#### c) Obligations to Internet users

The Vendor acknowledges that Twenga provides Internet users with price comparison services and services linked to that activity. As the products and/or services listed on the Twenga Network are sold directly by the Vendor to the Internet user who visits the Twenga Network, the Vendor is solely responsible with regard to Twenga and the Internet users who visit the Twenga Network for relations with such Internet users and for dealing with any problem, particularly a problem relating to the recording and management of orders, invoicing, the online payment process and the execution of orders. It must hold Twenga harmless from and against any action or claim made in this respect.

The Vendor will apply to Internet users who visit the Twenga Network the same Terms and Conditions of sale and the same prices as those applied to Internet users who access the Vendor's Website directly.

#### d) Compliance with the law and regulations

The Vendor agrees to ensure that its business and the Vendor's Website, particularly the elements of the Vendor's Website (hereinafter the 'Vendor's Elements') such as URL addresses, company names, trade names, trade marks, logos, distinguishing signs, slogans, files, descriptions, prices, shipping costs, advertisements, photographs of the products and/or services and data (whether visual, photographic, textual, audio, software, etc.) to be used to list the Vendor on the Twenga Network comply with applicable law and regulations.

Accordingly, the Vendor agrees in particular to fulfil and comply with the following:

- the obligations arising under French Act No 2004-575 of 21 June 2004 on trust in the digital economy; and
- the provisions of consumer law, including in particular the prohibition on misleading business practices and misleading advertising, and the rules applicable to the display of prices.

Twenga may immediately remove from the Twenga Network any of the Vendor's Elements that breach the law, a regulation or a court decision, without being required to inform the Vendor beforehand.

#### **e) Implementation of technical resources**

The Vendor must implement such technical resources as will facilitate the listing of the Vendor's Website. The Vendor agrees to do everything possible to ensure that Internet users can access the Vendor's Website 24 hours a day, 7 days a week throughout the term of the Contract.

The Vendor agrees to provide Twenga with all the Vendor's Elements and other technical and graphic elements required to provide the Service. The Vendor agrees in particular to co-operate with Twenga in regards to the installation process, as well as put in place and continually maintain (particularly if the structure or content of the Vendor's Website changes) the Tracking Tool and other technical elements required to record and monitor activity generated on the Vendor's Website via the Activity Monitoring Platform.

#### **f) Tracking**

The Vendor must implement an appropriate personal data protection policy. The Vendor therefore agrees to include a confidentiality and personal data protection policy on its website(s), which clearly stipulates that third parties may install anonymous cookies on the browsers of visitors to their website(s). The Vendor further agrees to inform its users of the various options available to them to manage cookies. Twenga will not be liable under any circumstances for the processing of personal or non-personal data by the Vendor.

If the Tracking Tool were disabled or were to become non-operational, for any reason, Twenga will no longer be able to provide the Sales activity, which it cannot be held responsible for in any way.

## **8.2 – Twenga's obligations**

#### **a) Availability of the Twenga Website and security**

Twenga will endeavour to ensure that the Twenga Website is accessible to Internet users at all times. However, Twenga cannot guarantee that the Twenga Website will be operational without interruption, or that it will not contain any bugs or errors. Access to the Twenga Website may be temporarily suspended, particularly if the system breaks down or for maintenance, repairs or updates.

As a professional online vendor of products and services, the Vendor declares that it is aware of the problems inherent in the use of the Internet, particularly of the variable bandwidth speeds and the network saturation that can cause a website to shut down or problems accessing a website. It further declares that it is aware of the risk of hacking by internet users and agrees not to hold Twenga liable in that respect. Furthermore, Twenga cannot guarantee that the Twenga Network will not contain any virus or other harmful device.

#### **b) Listing the Vendor**

Twenga agrees to list the Vendor on the Twenga Website in accordance with Article 3 of these Terms and Conditions, provided that the Vendor duly fulfils its obligations. The Vendor will only be effectively listed within the limits permitted by the listing technique used.

#### **c) Changes to the Twenga Website**

The Vendor acknowledges that Twenga is free to make changes to the Twenga Website at any time and at its sole discretion. Twenga may notably delete pages from the Twenga Website, change categories and change headings. Twenga may also decide, at its discretion, to permanently shut down the Twenga Website.

## **ARTICLE 9 – DATA**

Vendor data ('Vendor Data') means:

- information collected by the Vendor; and
- information collected via the Tracking Tool supplied by Twenga and installed on the Vendor's Website. The Vendor's Data is listed in the technical documentation available at the following address: <https://www.twenga-solutions.com/en/pixel>

The Vendor will remain the sole owner of the Vendor Data.

Twenga data ('Twenga Data') includes the following in particular:

- information concerning all Internet users who use the Twenga Network and whose use of the Twenga Network is registered and traced using various technical means such as cookies; and
- all the information resulting from its e-commerce experience and know-how, the history of the Twenga Network and its data enhancing technologies.

Twenga will remain the sole owner of the Twenga Data.

The Vendor expressly authorises Twenga to:

- collect, process, analyse and use the Vendor Data to provide and optimise the Service;
- combine the Vendor Data and the Twenga Data to enhance and classify them; and
- pass on the Vendor Data where required to do so by law or to comply with a decision by a court or an authority.

All Vendor Data will be considered as confidential information by Twenga. This present Contract does not grant Twenga any copyright or license to the Vendor Data, nor does it authorize Twenga to make this information public, to disclose it to a third party, or to use the Vendor Data for any other purpose, other than that defined by the Contract. As such, the Contract should not be interpreted as granting Twenga any right or license to sell, transfer or assign, to third parties, any of the Vendor Data. Twenga completely commits to not disclose, transmit or sell, in any way or for any reason whatsoever, the Vendor Data.

Each party is aware of the fact that the collection and processing of the personal data of Internet users are governed by French Act No 78-17 of 6 January 1978 and all other provisions applicable to the protection of personal data. Accordingly, each party agrees to complete the required formalities under its responsibility and to fulfil its obligations in this respect.

## ARTICLE 10 – NO EXCLUSIVITY

The Vendor acknowledges that Twenga may enter into any agreement with the same subject matter as the Contract with third parties.

## ARTICLE 11 – INTELLECTUAL PROPERTY

### 11.1 – The Vendor's intellectual property

The Vendor authorises Twenga to use, reproduce, publicly display and exploit on the Twenga Network some or all of the elements belonging to the Vendor in order to perform the Contract. If necessary, the Vendor will provide Twenga with the required trademarks and logos along with the relevant style guide. Any use of the Vendor's Elements other than as provided for in the Contract requires the Vendor's prior written permission.

### 11.2 – Twenga's intellectual property

Twenga is and will remain the sole proprietor or holder of all the intellectual and industrial property rights relating to the Twenga Website, the website components, all Twenga trademarks and other distinguishing signs, and the Activity Monitoring Platform. The Vendor is not permitted to use them in any way whatsoever, as the Contract does not include any assignment of rights by Twenga to the Vendor.

## ARTICLE 12 – WARRANTIES

## 12.1 – Warranties by the Vendor

The Vendor warrants that it holds all the intellectual and industrial property rights attached to its trademarks, logos and other distinguishing signs, as well as to the Vendor's Website, all components thereof and all elements appearing thereon. It further warrants that the Vendor's Website complies with the laws and regulations in force and, in particular, that it is not contrary to public policy, morality or other third-party rights.

More specifically, the Vendor will hold Twenga harmless from and against any claims and action relating to access to the Vendor's Website and the use by Twenga of the Vendor's Elements, particularly those resulting from the following:

- (i) the infringement of a third party's intellectual or industrial property rights;
- (ii) an infringement of personality rights;
- (iii) an act of unfair competition or undue enrichment;
- (iv) an infringement of public policy or morality;
- (v) an infringement of privacy and personal data protection rules;
- (vi) an infringement of the provisions of consumer law; or
- (vii) an infringement of the rules governing advertising and the display of prices.

In any such case, the Vendor will defend Twenga and compensate it for any damages resulting from such action as well as for the costs, including lawyers' fees, incurred by Twenga as a result. Twenga must inform the Vendor of any such claims or action as quickly as possible. The Vendor will be entitled to oversee the defence of any such action. Twenga must help with such defence at the request and expense of the Vendor. If a settlement agreement negotiated with a third party under the Vendor's supervision is entered into, the Vendor agrees to first submit the settlement agreement to Twenga for approval and to directly pay the claimant any sum claimed by the latter from Twenga.

If a ban on the use of the Vendor's Website is imposed as a result of legal action or pursuant to a settlement agreement entered into with a third party, the Contract will be terminated immediately and automatically, without formal notice or the need to complete any other formality. The Vendor will not be entitled to claim the reimbursement of any sums paid by it under the Contract.

## 12.2 – Warranties by Twenga

Twenga warrants that the Twenga Website, the Activity Monitoring Platform and the other technical devices installed by Twenga comply with applicable law and regulations and, in particular, that they do not breach public policy, morality or third-party rights.

All other warranties with respect to the Twenga Network, the Activity Monitoring Platform and the other technical devices installed by Twenga are expressly excluded by Twenga.

The target margins and/or traffic acquisition cost objectives jointly defined by the Vendor and Twenga will help manage its visibility in the context of the Shopping Push Business Plan Solution. Twenga will take all reasonable steps to achieve such targets. Nonetheless, owing to the unpredictability of numerous parameters that could impact the Vendor's profitability and which are beyond Twenga's control, Twenga will not be liable under any circumstances for any failure to achieve the target margins and/or purchase prices.

## ARTICLE 13 – LIABILITY

In any case, Twenga's total liability under the Contract, all damages combined, cannot exceed the amounts paid by the Vendor to Twenga, minus the traffic acquisition costs paid by Twenga for the purchase of the advertising space, during the three (3) months preceding the event causing the damage.

Twenga will not be liable for any indirect or unforeseeable damage or loss. Furthermore, Twenga will not be liable under any circumstances for any economic or financial loss suffered by the Vendor in relation with the Contract, including but not limited to a loss of profit, loss of clientele, damage to its image, loss of an opportunity or the loss or corruption of data.

## ARTICLE 14 – CONFIDENTIALITY

Each party agrees to keep confidential all financial, technical, commercial and other information concerning the other party's business that is provided to it by the other party in the context of the negotiation and performance of the Contract. It is hereby stipulated for all necessary purposes that information concerning the Activity Monitoring Platform, the results and statistics produced by the said platform and the prices applicable constitute confidential information. Each party further agrees to keep the terms of the Contract confidential.

This confidentiality obligation will remain in force for two (2) years after the Contract has ended for whatever reason.

It does not apply to any administrative, judicial or tax authority, or to any lawyers, accountants or auditors, as the said persons are bound by a duty of professional secrecy with regard to their clients.

## ARTICLE 15 – PARTNERSHIP

As the Vendor has entered into this Contract with Twenga, it may display a 'Twenga partner' visual on its website. This visual, which must be presented in the form of an image in which the Twenga trademark is reproduced, may only be used subject to the following conditions:

- It must appear on the first page or on the 'partner' page (or a similar page) of the Vendor's Website;
- The format and content of the image must be identical to those uploaded to the Twenga Website; and
- It must not be misrepresented owing to the content surrounding it.

A visual will be provided to the Vendor further to a request submitted to Twenga.

## ARTICLE 16 – TERMINATION

In the event the Vendor breaches any of its contractual obligations, Twenga may terminate the Contract immediately and automatically seven (7) days after sending the Vendor formal notice by e-mail, fax or other written document if the Vendor fails to remedy the alleged breach within the specified time limit. Twenga may also terminate the Contract immediately and automatically, without notice, in the event of a serious or repeated breach by the Vendor of one of its obligations. A repeat breach is any breach that occurs following a first similar breach, even if the latter was remedied, regardless of the time that elapses between the two breaches. If the Contract is terminated for a reason attributable to the Vendor, all sums owed by the Vendor to Twenga will fall due immediately, without prejudice to any additional damages that Twenga may claim.

## ARTICLE 17 – CONSEQUENCES OF TERMINATION

If the Contract expires or is terminated for whatever reason, the Vendor will cease to benefit from the Service.

## ARTICLE 18 – AMENDMENT OF TERMS AND CONDITIONS

Twenga may amend the Terms and Conditions at any time, at its discretion. In the event of a substantial amendment, the Vendor will be informed accordingly by e-mail, fax or other written means fifteen (15) days before the amended Terms and Conditions take effect. If the Vendor rejects the amendment, it may terminate the Contract by registered mail, ordinary letter or e-mail within fifteen (15) days of notification of the amendment. The Contract will terminate on the date the amended Terms and Conditions take effect.

If the Contract is not terminated before the amended Terms and Conditions take effect, the latter will be deemed to have been accepted.

## ARTICLE 19 – NEW SERVICES



In addition to the Service described in the Terms and Conditions, Twenga may also offer the Vendor new or additional services at any time. Such services may be provided for in specific Special Terms and Conditions.

## ARTICLE 20 – TRANSFERABILITY

Twenga and the Vendor reserve the right to assign or transmit at any time to a company within their group all or part of the Contract and agree to inform the other party accordingly within one (1) month of the assignment or transfer. The term 'group' means all the entities that are controlled by, or that are under common control with, one of the parties, either directly or indirectly via one or more legal entities, and the term 'control' should be understood according to the definition given in Article L.233-3 of the *Code de Commerce* (French Commercial Code).

The Vendor agrees not to assign or transfer the Contract to a third party. Any assignment or transfer carried out in breach of this clause will be deemed invalid and will incur the Vendor's liability.

## ARTICLE 21 – SEVERABILITY

If one or more provisions of the Contract are held or declared to be invalid, inapplicable or unenforceable pursuant to a law or regulation or further to a final decision of a court with jurisdiction, the other provisions of the Contract will remain in full force and effect.

## ARTICLE 22 – GOVERNING LAW AND JURISDICTION

The Contract is governed by French law, even if one of the parties is of foreign nationality or the contract is performed in whole or in part abroad.

As the Contract is entered into between traders, the parties expressly agree that the courts of Paris will have exclusive jurisdiction to hear any dispute relating to the Contract, even if more than one defendant is involved and even if a third party is joined to the proceedings.

**Twenga**