

PUBLIVE TERMS OF SERVICE

PubLive Mediatech Private Limited, existing under the laws of India, having its registered office at 3rd Floor, Plot No 60, G Block, South City 1, Gurgaon 122001. In this document referred to as “**PubLive**”.

And

(“**Publisher**”)

All PubLive Clients, incorporated and existing under the laws of India. In this agreement referred to as “**Publisher**”

Each of the PubLive and Publisher is individually referred to as a “**Party**” and collectively as the “**Parties**”. PubLive and Publisher agree that the following terms and conditions will apply to the services provided under this document.

WHEREAS:

- A. PubLive is a service provider engaged inter alia in the business of providing pre-coded web based digital software platform for website designing, development, hosting, online marketing, advertising, publishing and other allied services.
- B. The Publisher is a digital content and media company incorporated under the laws of India and engaged in the business of publishing news on a web based digital platform.
- C. The Publisher is desirous to engage the services of PubLive and PubLive has agreed to render its services to the Publisher on the terms specified below.

1. SAAS SERVICES

During the Subscription Term, Publisher will receive a non-exclusive, non-assignable, royalty free, right to access and use the SaaS Services detailed in **Schedule A** hereto solely for the internal business operations subject to the terms of this SaaS Agreement.

Publisher acknowledges that this SaaS Agreement is a services agreement and PubLive will not be delivering copies of the Software to Publisher as part of the SaaS Services.

2. RESTRICTIONS

Subject to the limited licenses granted herein, PubLive shall own all right, title and interest in and to the Software, services, and other deliverables provided under this SaaS Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto and

intellectual property rights therein.

3. **PUBLISHER RESPONSIBILITIES**

3.1 **Assistance**

Publisher shall provide commercially reasonable information and assistance to PubLive to enable PubLive to deliver the SaaS Services. Upon request from PubLive, Publisher shall promptly deliver Publisher Content to PubLive in an electronic file format specified and accessible by PubLive. Publisher acknowledges that PubLive's ability to deliver the SaaS Services in the manner provided in this SaaS Agreement may depend upon the accuracy and timeliness of such information and assistance.

3.2 **Compliance with Laws**

Publisher shall comply with all applicable local, state, national and foreign laws in connection with its use of the SaaS Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data. Publisher acknowledges that PubLive exercises no control over the content of the information transmitted by Publisher through the SaaS Services. Publisher shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.

3.3 **Administrator Access**

Publisher shall be solely responsible for the acts and omissions of its Administrator Users. PubLive shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrator Users.

3.4 **Publisher Input**

Publisher is solely responsible for collecting, inputting and updating all Publisher Content stored on the Host, and for ensuring that the Publisher Content does not (i) include anything that actually or potentially infringes or misappropriate use of the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) contain anything that is obscene, defamatory, harassing, offensive or malicious.

3.5 **License from Publisher**

Subject to the terms and conditions of this SaaS Agreement, Publisher shall grant to PubLive a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Publisher Content solely as necessary to provide the SaaS Services to Publisher.

3.6 **Ownership**

Publisher retains ownership and intellectual property rights in and to its Publisher Content. PubLive or its licensors retain all ownership and intellectual property rights to the services, Software programs, and anything developed and delivered under this SaaS Agreement.

3.7 **Rights to monetise**

Publisher assigns to PubLive all the rights to monetise the website programmatically or otherwise including but not limited to display native video and affiliate advertising.

4. **PAYMENT AND TAXES**

4.1 **Consideration**

In consideration of the SaaS Services to be provided by PubLive to the Publisher and performance of the terms and conditions contained in this SaaS Agreement, both the Parties have mutually agreed upon the financial considerations detailed in **Schedule B**. Except as expressly provided otherwise, all fees are non-refundable. All fees are stated in Indian Rupees, and must be paid by Publisher to PubLive in Indian Rupees.

4.2 **Taxes**

PubLive shall bill Publisher for applicable taxes as a separate line item on each invoice. Publisher shall be responsible for payment of all goods and service tax (GST), or similar charges relating to Publisher's purchase and use of the services. Publisher shall not be liable for taxes based on PubLive's net income or capital.

5. **TERM AND TERMINATION**

5.1 **Term of SaaS Agreement**

The term of this SaaS Agreement shall begin on the date of this SaaS Agreement and shall continue until terminated by either party as outlined in this Section.

5.2 **Termination**

Either Party may terminate this Agreement during the Subscription Term by issuing written notice of 60 (sixty) days to the other Party, without any requirement whatsoever, to specify any reasons or grounds in connection therewith or therein.

This SaaS Agreement may also be terminated immediately upon a Material Breach by the other party that has not been cured within fifteen (15) days after receipt of notice of such breach.

5.3 **Effect of Termination**

a. Upon termination of this SaaS Agreement or expiration of the Subscription Term, PubLive shall immediately cease providing the SaaS Services and all usage rights granted under this SaaS Agreement shall terminate.

- b. Upon termination of this SaaS Agreement and upon subsequent written request by the disclosing party, the receiving party of tangible Confidential Information shall immediately return such information or destroy such information and provide written certification of such destruction.
- c. PubLive shall keep a copy of the Publisher Content for a period of 30 days post termination (after expiry of notice period) of this SaaS Agreement and delete/destroy all the Publisher Content thereafter. PubLive shall not use the Publisher Content for any other purpose and shall only use the same as a backup for Publishers during the process of migration.
- d. Publisher shall be liable to pay all dues till the last date of service including the notice period. In case the Publisher requires more time for transition from the PubLive platform, it can be managed on a case to case basis subject to continuance of payment consideration by the Publisher.
- e. In case Publisher decides to start using PubLive as a platform again after termination, it will be treated as a fresh contract.
- f. Upon termination, PubLive shall return the following as a part of the handover to the Publisher:
 - i. Publisher Content data export in a standard format for all the existing pages of the Publisher's website.
 - ii. Transfer/ discontinue access to Google Analytics.
 - iii. Transfer/ discontinue access of all revenue streams.

6. **LIMITATIONS OF LIABILITY**

Neither party (nor any licensor or other supplier of PubLive) shall be liable for indirect, incidental, special or consequential damages.

7. **INDEMNIFICATION**

If a third party makes a claim against either Party that any Party's Content infringes any patent, copyright or trademark or any other intellectual property, or misappropriate use of any trade secret, the defaulting Party shall defend the non defaulting Party and its directors, officers and employees against such actual and direct claims at the defaulting Party's expense and the defaulting Party shall pay all actual and direct losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by the Parties, to

the extent arising from the claim. Neither Party shall be liable for any indemnity claim unless the other Party provides a written notice containing reasonable details of the legal and factual basis of the loss to the Party, on or before the last day of the term of this Agreement. Notwithstanding anything contained in this Agreement, neither Party shall be liable under this Agreement for any amount exceeding 12 months' Fees received by PubLive from the Client.

8. **CONFIDENTIAL INFORMATION**

During the term of this SaaS Agreement and for 5 years thereafter (perpetually in the case of software), each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this SaaS Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party.

9. **GENERAL PROVISIONS**

9.1 **Non-Exclusive Service**

Publisher acknowledges that SaaS Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict PubLive's ability to provide the SaaS Services or other technology, including any features or functionality first developed for Publisher, to other parties.

9.2 **Assignment**

Neither party may assign this SaaS Agreement or any right under this SaaS Agreement, without the consent of the other party.

9.3 **Notices**

Except as otherwise permitted in this SaaS Agreement, notices under this SaaS Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered post, (b) same day when transmitted if sent by email.

9.4 **Force Majeure**

Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence.

9.5 **Waiver**

No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of this SaaS Agreement shall not constitute a waiver of any other or subsequent breach.

9.6 Severability

If any term of this SaaS Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this SaaS Agreement shall remain in full force.

9.7 Entire Agreement

This SaaS Agreement (including all Schedules) contains the entire agreement of the parties and supersedes all previous oral and written communications by the parties, concerning the subject matter of this SaaS Agreement. This SaaS Agreement may be amended solely in a writing signed by both parties.

9.8 Survival

Sections 3, 6, and 7 through 10 of this SaaS Agreement shall survive the expiration or termination of this SaaS Agreement for any reason.

9.9 No Third Party Beneficiaries

This SaaS Agreement is an agreement between the parties, and confers no rights upon either party's employees, agents, contractors, partners of Publishers or upon any other person or entity.

9.10 Independent Contractor

The parties have the status of independent contractors, and nothing in this SaaS Agreement nor the conduct of the parties will be deemed to place the parties in any other relationship. Except as provided in this SaaS Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.

9.11 Statistical Information

PubLive may anonymously compile and publish statistical information related to the performance of the Services for purposes of improving the SaaS service, provided that such information does not identify Publisher's data or include Publisher's name.

9.12 Governing Law and Jurisdiction

This SaaS Agreement shall be governed by the laws of India. Subject to clause 9.14, the Parties agree to submit to the jurisdiction of the courts of Gurgaon.

9.13 Compliance with Laws

The Parties shall comply with all applicable local, state, national and foreign laws in connection with the use of SaaS Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data.

9.14 **Dispute Resolution**

Any dispute or difference arising under or in connection with this Agreement or any breach thereof (“**Dispute**”) which cannot be settled amicably between the Parties within a period of fifteen (15) days from when the Dispute first arose, either Party may refer the dispute to arbitration of a Sole Arbitrator to be jointly appointed by the Parties to this SaaS Agreement. The arbitration shall be conducted in English in accordance with the provisions of the Arbitration and Conciliation Act of 1996. The seat and venue of arbitration shall be New Delhi, India. The Award shall be final and binding on both Parties to this Agreement.

9.15 **Counterparts**

This SaaS Agreement may be executed in multiple counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement.

SCHEDULE A
SAAS SERVICES

SaaS Services includes the following service offerings:

1. Facilitation of migration, if required, from the Publisher's existing website and content management system to the PubLive Software.
2. Post migration onto the PubLive Software. PubLive shall make the website live upon receiving a written confirmation from the Publisher.
3. PubLive shall provide one or more training sessions as may be mutually agreed, to the Publisher's team with respect to the PubLive Platform.
4. PubLive shall manage the hosting of the Publisher's website on a central level.
5. PubLive shall monetize the ad inventory on Publisher's website programmatically and optimise the revenue on an ongoing basis.
6. PubLive shall serve any direct campaigns that Publisher gets directly from a third party.
7. The adjustments with respect to invalid traffic adjustments shall be updated by PubLive on a monthly basis.

Support and Maintenance Services

In case of a technical issue, PubLive will respond to the issue within 24 hours of a written complaint from the Publisher.

*****End of Schedule A*****

SCHEDULE B
CONSIDERATION AND PAYMENTS

S.No.	Particulars	Amount (Rupees)	Cost Type
1.	One time setup fee including the cost of migration from the existing assets	Can vary based on client size	One Time -Fixed
2.	Hosting charges of per month with upto 1 million monthly page views and storage of 10 GB	Can vary based on client size	Monthly -Fixed for two years aligned with the slabs for Hosting mentioned in the grid below..
3.	Success fee on the revenue generated on the website through display of ads, video ads, native ads, affiliate marketing programs and any other revenue stream on the website	15% of the monthly gross revenue generated (can further vary)	Monthly - Fixed for two years post that it might increase with the upper limit of 20%.
4.	Flat fee on revenue generated on the website through direct campaigns.	Can vary based on client size	Fixed

Different Slabs for Hosting charges based on growth of the publisher.

*****End of Schedule B*****

Note: PubLive may change the terms with respect to Schedules A & B over a period of time by giving a written notice to the Publisher.