

**EYEOTA PTE LTD**  
**Data Provider Services Order**

This Order describes your purchase of the Eyeota Data Provider Services. This Order incorporates the Eyeota Terms and Conditions for Data Provider Services found at <https://www.eyeota.com/tandcs>.

**Provider details**

<b>Company name</b>	[Insert official legal company name] (“the <b>Provider</b> ”)
<b>Main contact</b>	[Name], [Title] [Phone number], [email address]
<b>Billing address</b>	[Full billing address]
<b>Billing contact</b>	[Name], [Title] [Phone number], [email address]

**Highlights of terms**

<b>Effective Date</b>	Last date of signature to this Order.
<b>Eyeota Services</b>	The collection of Online Data from the Provider, or on-boarding of Offline Data from the Provider, and the continual maintenance, distribution, marketing and sale of such Provider Data.
<b>[Sites / Markets] included</b>	[Where Provider is an online publisher, include the domains to contribute the data. Where Provider is an offline data provider, include the markets / countries that data is being provided for]. This agreement can be expanded to include other markets at the discretion of both parties
<b>Data included</b>	Data type: [Online Data / Offline Data] [Insert data segments to be supplied]. This agreement can be expanded to include other data segments at the discretion of both parties
<b>Revenue share</b>	The Provider will receive 50% of the Provider Revenue Pool, as specified in the Revenue Share Calculation in Appendix A to the Terms & Conditions of the Provider Services Agreement.
<b>Use of Provider Marks</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	If the “Yes” box immediately to the left of this paragraph is checked, Eyeota may use the Provider’s brand names, logos and marks on Eyeota’s websites and marketing literature for the sole purpose of identifying the Provider as a data contributor to the Eyeota Data Marketplace and marketing the Eyeota Services to potential Eyeota customers.
<b>Exclusivity</b>	The Eyeota Data Marketplace is to be [the <b>exclusive</b> / a <b>non-exclusive</b> ] data market place for the Provider’s Data Segments[, and the Provider will not use any other data market place or similar system for the marketing, sale, and distribution of anonymous data collected on the Provider’s Sites].

**Eyeota details**

<b>Main contact</b>	[Name], [Title] [Phone number], [email address]
<b>Billing address</b>	Eyeota Pte Ltd, 12A Upper Circular Road, 058410 Singapore
<b>Billing contact</b>	Accounts Payable, <a href="mailto:accountspayable@eyeota.com">accountspayable@eyeota.com</a>

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**Provider signature** **Date**

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**Eyeota signature** **Date**

**EYEOTA PTE LTD**  
**Data Provider Services Agreement**  
**Terms and Conditions**

These Terms and Conditions were last updated on 23rd November 2016.

These Terms and Conditions (this “**Agreement**”) are an agreement between the entity set forth in the Order (“**Provider**”) and Eyeota Pte Ltd (“**Eyeota**”). Eyeota operates an online data exchange marketplace (the “**Eyeota Data Marketplace**”) that, among other things, enables its (i) data providers to generate revenues from anonymous data such as demographic, behavioural, and other similar data, and (ii) data customers and buyers to use such data for ad targeting, audience and content personalization, and similar purposes. This Agreement governs Provider’s access to and use of the services given by Eyeota (“**Services**”) set forth in the Order (which may include the deployment of consumer segments, demographic data, behavioural data, and similar data (the “**Provider Data**”) on the Eyeota Data Marketplace. By entering into an Order, accessing or using the Eyeota Data Marketplace, delivering data to Eyeota, or by accepting payment from Eyeota, Provider acknowledges that it has read, understood, and agreed to be bound by the terms of this Agreement. Each Order will be deemed to incorporate the terms of this Agreement as it is published by Eyeota on the effective date of such Order.

**1. Eyeota Services.**

- 1.1. Eyeota Services.** Services include the marketing and distribution of Provider Data, and the collection of revenues generated from Provider Data via the Eyeota Data Marketplace as further set forth in this Agreement and the Order.
- 1.2. Order.** A description of the Services, the Provider Data, the Revenue Share Percentage, and other relevant terms will be set forth in an Order executed by both parties.
- 1.3. Online and Offline Data On-boarding.** The Provider Data may be online data generated through the use of websites operated by Provider as obtained and delivered to Eyeota through the placement of Eyeota tags, or passed to Eyeota through other transfer and syncing methodologies that are to be mutually agreed between the parties (“**Online Data**”). Alternatively, the Provider Data may be offline data that is not obtained through the placement of the Eyeota Tag and is delivered to Eyeota via the method set forth in the Order Form (“**Offline Data**”). The Order will categorize Provider Data as either Online Data or Offline Data.
- 1.4. Professional Services.** Provider may request that Eyeota provide certain professional services that are ancillary to this Agreement. In such event, the parties will enter into a Statement of Work that sets forth the scope and description of the professional services, deliverables, parties’ responsibilities, completion dates, fees and payment terms, and any other relevant information.
- 1.5. Exclusivity.** Each Order will indicate whether the Eyeota Data Marketplace will be the only and exclusive marketplace for the Online Data and/or Offline Data described in that form. If the Eyeota Data Marketplace is the exclusive marketplace for such data, then Provider will not distribute, market, sell or license any data collected on the Provider Sites through any channel other than the Eyeota Data Marketplace. If the Eyeota Data Marketplace is not the only and exclusive marketplace for such sites, then Provider may distribute, market, sell and license such data through any other channel.

**2. EYEOTA RESPONSIBILITIES.**

- 2.1. Cooperation.** Eyeota will cooperate with Provider to facilitate Provider’s provision of Provider Data to Eyeota. Eyeota will give Provider instructions and access credentials to allow Provider to deliver the Provider Data to Eyeota.
- 2.2. Operation of Eyeota Data Marketplace.** Subject to the terms of this Agreement, Eyeota will manage and operate the Eyeota Data Marketplace during the term of this Agreement (including, without limitation, performing the sales and marketing functions for the Eyeota Data Marketplace). Eyeota will be solely responsible for determining the manner in which the Eyeota Data Marketplace is managed and operated and the extent to which the Provider Data is made available on the Eyeota Data Marketplace.
- 2.3. Compliance with Laws and Regulations.** Eyeota and the Eyeota Data Marketplace will comply with all applicable laws, rules, regulations, statutes, and orders, including those regarding privacy.

**3. PROVIDER RESPONSIBILITIES.**

- 3.1. Delivery and Offering.** During the term of this Agreement, Provider will deliver the Provider Data to Eyeota as further set forth in this Agreement.

- 3.2. **Data Use.** Provider hereby gives Eyeota the permission to (i) copy, modify, distribute, perform, and display the Provider Data for purposes of offering the Provider Data on the Eyeota Data Marketplace worldwide, and (ii) allow users of the Eyeota Data Marketplace to use the Provider Data for purposes of audience analytics, content delivery, site personalization, ad targeting, and for any other purposes for which data is offered in the Eyeota Data Marketplace.
- 3.3. **Cooperation.** Provider will cooperate reasonably with Eyeota to facilitate Eyeota's offering of the Provider Data on the Eyeota Data Marketplace. Provider shall provide Eyeota access to technical and business resources whose feedback would enable Eyeota to support the Provider Data's success within the Eyeota Data Marketplace. If in the Order, the Provider has agreed to allow Eyeota to use the Provider's marks, the Provider also hereby agrees to participate in a case study using Provider's Data Segments provided to Eyeota Data Marketplace.
- 3.4. **No PII.** Unless otherwise agreed in an Order, Provider will ensure that the Provider Data, when delivered to Eyeota, does not contain Personally Identifiable Information ("PII"). PII means information that can be used to identify, contact, or locate a natural person, including, without limitation, a natural person's name, email address, governmental identification number, or telephone number.
- 3.5. **Compliance with Laws and Regulations.** The Provider will comply with all applicable laws, rules, regulations, statutes, and orders, including those regarding privacy, and shall maintain and comply with a data privacy policy that complies with such laws, rules regulations, statues and orders.
- 3.6. **Material Changes to Business.** The Provider will notify Eyeota in writing in the event of a major change in business model or product positioning that would alter the marketability of its audience to potential data buyers.
4. **SELF-REGULATORY ACKNOWLEDGEMENT.** Provider acknowledges that Eyeota is a member of the Internet Advertising Bureau and may become a member of one or more other self-regulatory organizations relating to the collection, use, and disclosure of PII and other information ("**Self-Regulatory Bodies**"). Provider agrees that Eyeota's performance under this Agreement may be restricted by rules and guidelines of one or more Self-Regulatory Bodies. Further, Eyeota may at any time modify and make changes to this Agreement in order to ensure compliance with rules and guidelines of Self-Regulatory Bodies and any other privacy-related obligations applicable to Eyeota, Provider, or members of the public. Any change to this Agreement under this Section will apply to Provider beginning 30 days after the date of Eyeota's written notice to Provider of such change. If Provider does not agree to any modification or change under this Section, Provider may terminate this Agreement at will by providing written notice to Eyeota within 30 days of its receipt of such notice from Eyeota.

## 5. ONBOARDING PROCESS.

### 5.1. Online Data.

5.1.1 Each of the following capitalized terms has the meaning indicated below.

"**Eyeota Tag**" means javascript code (or a "pixel") that is provided by Eyeota in order to enable Provider to participate in the Eyeota Data Marketplace, including the receipt of Targeting Triggers.

"**Provider Sites**" means the websites of Provider listed on an Order.

"**Targeting Trigger**" means a third party targeting cookie dropped via the Eyeota Tag.

5.1.2 In cases where Provider Data is sourced from websites, Provider hereby grants to Eyeota the right to place Eyeota Tags on the Provider Sites and to collect usage, preference, and demographic data of visitors to the Provider Sites. Provider will implement the Eyeota Tags on all Provider Sites outlined in an Order to this Agreement and only on Provider Sites.

5.1.3 All Provider Data passed to Eyeota will not include PII.

5.1.4 Provider will: (a) communicate with and provide access to Eyeota technical and business personnel; and (b) notify Eyeota of any major change in its type of website traffic, application usage or other relevant Provider traffic, composition of content, business model, or product positioning that would alter the marketability of its data to potential buyers.

5.1.5 In cases where Provider Data is sourced from websites and Eyeota Tags are deployed, Provider will ensure that it or other parties will not intercept and then market, distribute, license, or sell any data obtained with Eyeota Tags through any channel other than the Eyeota Data Marketplace. Provider will comply with this Section whether or not the Eyeota Data Marketplace is designated as the only and exclusive channel of distribution for data collected on Provider Sites.

5.1.6 Provider will not place Eyeota Tags on any websites or pass Provider Data to Eyeota from applications or other sources that are in violation of any law, rule, or regulation or on any websites that contain any content that: (a) is an invasion of privacy, degrading, defamatory, libelous, unlawful, profane, obscene, pornographic, hate material, or discriminates on the basis of sex, age, race, religion, nationality, disability, sexual orientation, or family status; (b) promotes any illegal activity including without limitation the promotion of gambling, illegal substances, software piracy, or hacking; (c) infringes on the personal rights, trademark, service mark, trade dress, trade name, logo, publicity right, copyright, patent rights, or any other intellectual property right of any third party; (d) violates any law, rule or regulation of any applicable jurisdiction, including those pertaining to wagering and interstate commerce of certain goods and services; (e) promotes or references software piracy or activities generally understood as Internet abuse including but not limited to the sending of unsolicited bulk e-mail, use of spyware, malware or distribution of worms or viruses, or facilitates or promotes illegal file-sharing (MP3s, copyright protected video, or the equivalent); or (f) content that is deceptive, misleading, untruthful, unsubstantiated, or otherwise fails to comply with applicable laws. Provider agrees and undertakes to notify Eyeota and to immediately remove the Eyeota Tag in the event that Provider has notice or knowledge that the Eyeota Tag has been placed on web pages that contain any of the restricted contents listed above.

5.1.7 In cases where Provider Data is sourced from websites and Eyeota Tags are deployed, in the event Eyeota has notice or knowledge that an Eyeota Tag fails to function properly, Eyeota will provide Provider with notification to that effect, and Provider will promptly remove such Eyeota Tag.

5.1.8 Eyeota respects user privacy and is committed to establishing responsible business and data management practices and standards. Eyeota undertakes to comply with the terms of its privacy policy as it is amended from time to time. Provider will maintain a privacy policy that complies with all applicable laws and meets or exceeds the material provisions of Eyeota's privacy policy and shall abide by such privacy policy. Provider will ensure that the privacy policy is easily accessible to and binding on users receiving a Targeting Trigger and will notify Eyeota if there are any changes made to such policy. Provider's privacy policy will include: (a) a statement of the fact that multi-site or application advertising is occurring on the Provider Sites; whichever is relevant to the Provider (b) in cases where Eyeota Tags are deployed, language that informs Provider's website visitors that 3rd party cookies may be delivered to them and that 3rd party cookies may be used to provide a more targeted advertising experience both on and off of provider's website, or for cases where no Eyeota Tags or third party cookies are deployed, language that informs users that non personally identifiable information relating to their usage is being collected to provide a more targeted advertising experience; (c) a description of types of data that are collected for advertising purposes; (d) an explanation of how, and for what purpose, data will be used or transferred to third parties; and (e) for the Provider Sites or applications that are hosted in the United States of America, the ability to opt-out of interest-based advertising from third parties who are members of the Network Advertising Initiative (NAI) or who follow the Digital Advertising Alliance's (DAA's) Self-Regulatory Principles for Online Behavioural Advertising by visiting the opt-out pages on the NAI website (<http://www.networkadvertising.org/choices/>) and DAA website (<http://www.aboutads.info/choices/>); for Provider Sites or applications that are hosted in Canada, the ability to opt-out of interest-based advertising from third parties who follow the Digital Advertising Alliance of Canada's (DAAC's) Self-Regulatory Principles for Online Behavioural Advertising by visiting the DAAC's website (<http://youradchoices.ca/choices/>); for Provider Sites that are hosted in Europe, the ability to opt-out of interest-based advertising via the European Digital Advertising Alliance's (EDAA's) opt-out pages (<http://www.youronlinechoices.eu>), and; for Provider Sites that are hosted in Australia, the ability to opt-out of interest-based advertising via the opt-out pages at <http://www.youronlinechoices.com.au>.

5.1.9 Eyeota may from time to time require Provider to provide users of the Provider Sites and applications with specific additional notice mechanisms consistent with applicable laws or industry self-regulations for the purpose of providing end users with information and choices in connection with online advertising as necessitated by relevant local authorities.

5.2 Offline Data. If the Order indicates that the Provider Data is Offline Data, then the Provider Data is to be on-boarded in to the Eyeota Data Marketplace through the matching of the Provider Data to Eyeota's pool of online profiles. The precise method of this matching and on-boarding is to be determined following a consultation between the technical teams of the Provider and Eyeota. Provider will communicate with and provide access to Eyeota technical and business personnel to assist with the on-boarding of the Provider's Offline Data.

## 6 **REVENUE SHARE.**

6.1 Revenue Reports. Due to lead times for the collection of revenue information from Eyeota's numerous sales partners, Eyeota will provide the Provider with a complete Monthly Sales Report setting forth the relevant data to calculate the

revenue and revenue share in accordance with the calculation set forth in the Order within thirty (30) days after the end of each calendar month. The Monthly Sales Report will be in US Dollars.

**6.2** Amount. The amount due to the Provider will be the percentage of the Provider Revenue Pool specified in the Order under "Revenue share" for revenue that has been collected by Eyeota during such calendar month.

**6.3** Payment. After receiving Eyeota's Monthly Sales Report, the Provider will invoice Eyeota for the amount due. Eyeota will pay the Provider within the later period of either: (a) thirty (30) days after Eyeota's receipt of funds relating to the sales of Provider Data within the invoice period, or (b) Within ninety (90) days after receiving Provider's invoice. Should the amount due to the Provider be less than US\$500, the amount shall not be paid but shall accrue until the point there the total accrued amount due to the Provider is greater than or equal to US\$500.

**6.4** Audit. All revenue figures shall in the first instance be based on Eyeota reporting data. Upon thirty (30) days' written notice to Eyeota from the Provider, the Provider may appoint an independent reputable auditor to audit the Eyeota sales report solely to ensure Eyeota's compliance with this Agreement and for no other purposes. Any audit will be conducted at the Provider's expense, and in a manner as not to interfere with Eyeota's business operation. The Provider is limited to one audit per calendar year. All information resulting from such audit will be Confidential Information of Eyeota.

**6.5** Transaction Taxes. All fees are net fees excluding any statutory taxes. Any applicable Transaction Taxes - e.g. value added tax ("VAT"), goods and services tax ("GST"), sales tax, excise tax, consumption tax or equivalent type charges - are to be borne by Eyeota in addition to the fees agreed. Provider will issue invoices in conformity with the applicable tax law.

**6.6** Withholding Tax. If required by applicable law, Eyeota will withhold tax on any payment which Eyeota is obliged to make to the Provider under this Agreement, and will obtain a proper receipt and discharge for the tax so deducted and forward it without delay to the Provider; and do all such other things and take such other steps as may be reasonably required to enable Provider to obtain any tax credit which may be available to it.

## **7** INTELLECTUAL PROPERTY.

**7.1** All intellectual property rights in and to the Services and the Eyeota Data Marketplace are and shall at all times remain the sole and exclusive property of Eyeota and are protected by applicable intellectual property laws and treaties. The Provider acknowledges that it does not acquire any ownership rights in the Eyeota Data Marketplace or the Services. Eyeota retains all right, title and interest in and to the technology utilized by Eyeota to provide the Marketplace Services hereunder, including but not limited to all patent, trademark, copyright, trade secret and all other intellectual property rights therein. All intellectual property rights in the Provider Data, brand names, logos and marks (the "Provider IP") are and shall at all times remain the sole and exclusive property of the Provider and are protected by applicable intellectual property laws and treaties. Eyeota acknowledges that it does not acquire any ownership rights in the Provider IP. The Provider retains all right, title and interest in and to the Provider's IP, including but not limited to all patent, trademark, copyright, trade secret and all other intellectual property rights therein.

**7.2** License to Provider Trademarks. Unless otherwise stated in an Order, Provider hereby grants to Eyeota a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 14.3), non-sub-licensable right to use Provider's logo and other trademarks on Eyeota's websites, the Eyeota Data Marketplace, and in Eyeota marketing materials, solely in connection with mutually agreed-upon activities contemplated under this Agreement. All uses of Provider's trademarks and related goodwill will inure solely to Provider and Eyeota will obtain no rights with respect to any of Provider's trademarks except for the limited license granted in this Section. Provider reserves all right, title, and interest in its trademarks and all associated goodwill.

**7.3** License to Eyeota Trademarks. Eyeota hereby grants to Provider a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 14.3), non-sub-licensable license to use Eyeota's logo and other trademarks on Provider's websites and in Provider marketing materials, solely in connection with mutually agreed-upon activities contemplated under this Agreement. All uses of Eyeota's trademarks and related goodwill will inure solely to Eyeota and Provider will obtain no rights with respect to any of Eyeota's trademarks except for the limited license granted in this Section. Eyeota reserves all right, title, and interest in its trademarks and all associated goodwill.

## **8** TERM AND TERMINATION.

**8.1** Term. This Agreement will commence upon the effective date of an Order and will continue for the term set forth in the Order, unless earlier terminated as set forth in Section 8.2. If no term is stated within the Order, the default term

will be twelve (12) months from the date of the Order and shall automatically renew for additional periods of the same twelve (12) month duration unless one party notifies the other party of its decision not to renew within 60 days prior to the renewal date.

**8.2 Termination.** Either party may terminate this Agreement upon 30 days' prior notice if another party materially breaches or defaults in its performance under this Agreement and does not cure such breach or default within such 30 day period.

**8.3 Effect of Termination.** If this Agreement expires or is terminated for any reason, Eyeota will have the continued right, but not the obligation, to offer the Provider Data delivered to Eyeota prior to termination or expiration, subject to Eyeota's obligation to pay to Provider the Revenue Share. Sections 7.1, 8.3, 8.4, 10, 11, 12, 13 and 14 of this Agreement will survive any expiration or termination of this Agreement.

**8.4 Residual Data Retention.** Upon termination, Eyeota will cease distribution of Provider Data to its partners; however, the Provider Data may be retained for up to ninety (90) days within the technology platforms of Eyeota's partners. During the course of this ninety day period, Provider Data will decay from active profiles within the technology platforms of Eyeota's partners. Any revenues earned from this residual data following the termination of this Agreement will be shared with the Provider under the same terms as if the Agreement had not been terminated.

## **9 WARRANTIES.**

**9.1 Mutual Warranties.** Each party represents and warrants to the other that: (a) this Agreement constitutes a valid and binding agreement enforceable against it; (b) it has all rights and authority to enter into this Agreement and no authorization or approval from any third party is required in connection with performance of this Agreement (including but not limited to all requisite ownership, rights, authority, and licenses to grant to Eyeota the rights to collect, use, modify, display and distribute Provider Data on the Eyeota Data Marketplace); and (c) during the term of this Agreement it will comply with all applicable laws, rules, and regulations, including those governing privacy.

**9.2 Provider Warranties.** Provider represents and warrants to Eyeota that: (a) Provider is now and will continue throughout the term of this Agreement to be in full compliance with all laws applicable to its business and the rules and regulations of any governmental or quasi-governmental regulatory body or agency that has jurisdiction over its business activities or products in any country in the world (each, a "**Governmental Authority**"); (b) it is not presently the subject of any investigation or prosecution by any Governmental Authority in connection with its products, services, or advertising and, to the best of its knowledge, no such investigation or prosecution is threatened; (c) Provider has disclosed to Eyeota the existence of any past formal or informal Governmental Authority investigation involving it or, if Provider is an organization, its officers, directors, or principals (and if it becomes involved or are named in any action, investigation, complaint or other proceeding by or before any Governmental Authority, or any private party), it will immediately provide notice to Eyeota of such action, investigation, complaint or other proceeding, in which event Eyeota may terminate this Agreement immediately upon written notice to Provider; and (d) the Provider Data does not include PII.

**10 DISCLAIMER.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN SECTION 9, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WARRANTS THAT THE PRODUCTS OR SERVICES PROVIDED BY SUCH PARTY ARE ERROR-FREE OR THAT OPERATION OF SUCH PARTY'S PRODUCTS OR SERVICES WILL BE SECURE OR UNINTERRUPTED. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY. EACH OF SECTION 9 AND 10 ARE SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES IN THIS AGREEMENT HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

## **11 INDEMNIFICATION.**

**11.1 Indemnification by Provider.** Provider will indemnify, defend, and hold harmless Eyeota from and against any third-party claim arising directly or indirectly from or in connection with: (a) Provider Data as delivered to Eyeota by Provider (including claims of intellectual property infringement and violation of privacy); (b) any intentional tortious act of Provider; and (c) any breach by Provider of any of its warranties, or representations contained in Section 9.

11.2 **Indemnification by Eyeota.** Eyeota will indemnify, defend, and hold harmless Provider from and against third-party claim arising from or in connection with: (a) any intentional tortious act of Eyeota; and (b) any breach by Eyeota of any of its warranties, or representations contained in Section 9.

11.3 If any third party claim is brought against either party (the “Indemnitee”) based on an allegation for which the foregoing indemnity may be sought from the Indemnitor, the Indemnitee will (i) promptly notify the Indemnitor of any such claim of which it becomes aware and will: (ii) provide reasonable cooperation to the Indemnitor at the Indemnitor’s expense in connection with the defence or settlement of any such claim; and (iii) be entitled to participate at its own expense in the defence of any such claim. The Indemnitee agrees that the Indemnitor will have sole and exclusive control over the defence and settlement of any such third party claim. However, the Indemnitor will not acquiesce to any judgment or enter into any settlement that adversely affects the Indemnitee’s rights or interests without the prior written consent of the Indemnitee, which consent shall not be unreasonably withheld.

12 **LIMITATIONS OF LIABILITY.** EXCEPT FOR LIABILITY ARISING FROM A BREACH OF SECTION 3.4 (NO PII) OR SECTION 13 (CONFIDENTIALITY), AND LIABILITY UNDER SECTION 11 (INDEMNIFICATION), (A) NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF A PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING (B) UNDER NO CIRCUMSTANCES WILL A PARTY’S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY EYEOTA TO PROVIDER UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM. THIS SECTION IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT.

13 **CONFIDENTIALITY.** Neither party will disclose the Confidential Information of the other party, or use the Confidential Information of the other party for any purpose other than to perform its obligations or exercise its rights under this Agreement, and will protect the confidentiality of the Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event will it exercise less than reasonable care in protecting the Confidential Information. “**Confidential Information**” of a party means all non-public information of a party, including but not limited to information about a party’s technology and business, marketing plans, designs, and business processes (whether in tangible or intangible form, in written or in machine readable form, or disclosed orally or visually). However, Confidential Information does not include any information that: (a) is or becomes generally known to the receiving party without its breach of any obligation owed to the other; (b) was independently developed by the receiving party without its breach of any obligation owed to the disclosing party; or (c) is received from a third party who obtained such Confidential Information without any breach of any obligation. The Provider Data collected via the Eyeota Tags is hereby designated as Confidential Information of both parties.

14 **GENERAL.**

14.1 **Relationship.** This Agreement will not be interpreted or construed as: (a) creating or evidencing any association, joint venture, partnership, or franchise between the parties; (b) imposing any partnership or franchise obligation or liability on any party; or (c) prohibiting or restricting any party from doing business with any third party.

14.2 **No Third-Party Beneficiaries.** Nothing in this Agreement is intended to confer upon any party other than Eyeota and Provider any rights, benefits, or remedies of any kind or character.

14.3 **Assignability.** Neither party may assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of the other party (which consent will not be unreasonably delayed or withheld), except that a party may assign all of its rights and obligations under this Agreement to a successor (whether by sale, acquisition, merger, operation of law, or otherwise) if the successor agrees in writing to fulfil all of the assigning party’s obligations under this Agreement. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and permitted assigns.

14.4 **Publicity.** Neither party will make a public announcement regarding the subject matter or existence of this Agreement, or any related discussions between the parties, without the prior written consent of the other party. The parties may agree in writing from time to time, or in an Order, to participate in case studies and public relations activities.

- 14.5 Notices.** Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by email, certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the addresses set forth in the relevant Order with the appropriate postage affixed. A party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier. In the case that notices are sent by email, notices are deemed to be given at the earlier of either a) the collection of an electronic read receipt by the sending party, or b) seven days from the date on which the notice was sent via email and with the condition that the sending party uses its best endeavours to attain confirmation of the receipt of the notice directly from the recipient. Notices to Eyeota should be sent to: Eyeota Pte Ltd, 12A Upper Circular Road, 058410, Singapore, FAO: Kevin Tan & Legal. Email notifications should also be sent to the Main Eyeota contact as outlined in any Order, as well as to [legal@eyeota.com](mailto:legal@eyeota.com) & [accountspayable@eyeota.com](mailto:accountspayable@eyeota.com)
- 14.6 Force Majeure.** Neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond such party's reasonable control (including, without limitation, any act or failure to act by the other party).
- 14.7 Governing Law.** This Agreement will be deemed to have been made in Singapore, and will be governed by and interpreted in accordance with the laws of Singapore, without regard to the conflict of laws principles thereof and without regard to the United Nations Convention on the International Sales of Goods. The exclusive forums for all disputes and any other legal or equitable proceedings arising under or in connection with the Agreement are the courts and located in Singapore, and the parties expressly submit to the jurisdiction of any such court in connection with any such dispute or proceedings.
- 14.8 Waiver.** The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.
- 14.9 Severability.** If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect.
- 14.10 Interpretation.** The parties have had an equal opportunity to participate in the drafting of this Agreement and the attached exhibits, if any. No ambiguity will be construed against any party based upon a claim that that party drafted the ambiguous language. The headings appearing at the beginning of several sections contained in this Agreement have been inserted for identification and reference purposes only and must not be used to construe or interpret this Agreement. Whenever required by context, a singular number will include the plural, the plural number will include the singular, and the gender of any pronoun will include all genders.
- 14.11 Counterparts.** This Agreement may be executed in any number of identical counterparts, notwithstanding that the parties have not signed the same counterpart, with the same effect as if the parties had signed the same document. All counterparts will be construed as and constitute the same agreement. This Agreement may also be executed and delivered by facsimile and such execution and delivery will have the same force and effect of an original document with original signatures.
- 14.12 Entire Agreement.** This Agreement, including all Orders, is the final and complete expression of the agreement between these parties regarding its subject matter. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into this Agreement. No employee, agent, or other representative of Eyeota has any authority to bind Eyeota with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in this Agreement. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement.

## Appendix A

### Revenue Share Calculation

Eyeota may generate revenue from Provider Data. The ways in which Eyeota generates revenue include, but are not limited to, fees on a per ad impression basis for adverts delivered to devices identified by Provider Data or devices that are included within Segments as a result of look-a-like modelling where Provider Data is a contributing source to the modelling, and general subscription fee for access to Provider Data. All of these methods will be included in the generation of the Provider Revenue Pool as set forth below. The Provider Revenue Pool will be shared with Provider in the amount of the Revenue Share Percentage noted in the Order. It is noted that only revenue attributable to the sale of Provider Data is shared. Eyeota explicitly disclaims any representations or warranties as to the amount of revenue it may generate (if at all) from Provider Data delivered by Provider.

The Provider Revenue Pool shall not include revenue generated from non-data service fees charged to Eyeota Data Marketplace buyers for delivering such services and for covering other overhead costs. The Provider Revenue Pool shall be calculated per Provider according to the following guidelines:

#### Additional Definitions:

**“Segment”** means a type of data that is named and aggregated by Eyeota in to a group of users fitting the same audience criteria.

**“Segment Rate”** means a CPM per Segment established by the Provider and Eyeota in consultation with each other and which may be revised from time to time with the agreement of both Parties. If the Provider is to provide its Provider Data and Segments on an anonymized basis in to Eyeota’s Own-branded Segments, the Segment Rate means a CPM per Segment established by Eyeota in its sole discretion as may be revised by Eyeota from time to time. Eyeota will publish the Segment Rate and any revised version thereof, which version shall become effective as of the date of such publication.

1. Revenue Attributable to Provider-branded Segments: If during the relevant billing period, a Marketplace buyer accepts Provider-branded Segments and targeted advertising revenue is generated and attributable to that specific Provider-branded Segment delivered by the Provider, then this revenue shall be considered part of the Provider Revenue Pool. For example, if a Marketplace buyer delivers 1,000,000 ad impressions using a Provider-branded Segment at a Segment Rate of \$3.00 (resulting in \$3,000 in fees paid to Eyeota) the amount added to the Provider Revenue Pool is \$3,000.
  
2. Revenue Attributable within Anonymized Segments: If during the relevant billing period, a Marketplace buyer accepts anonymized Eyeota Own-branded Segments (“Anonymized Segments”) which the Provider has contributed to and targeted advertising revenue is generated and attributable to that specific Anonymized Segment, then this revenue shall be considered part of an Anonymized Segment Revenue Pool. The Anonymized Segment Revenue Pool will then be apportioned across the multiple Providers contributing to the Anonymized Segment based on the respective number of unique profiles that each Provider has provided to this specific Anonymized Segment within the country the impressions were delivered in, and within the month under consideration. For example, if a Marketplace buyer delivers 1,000,000 impressions using an Anonymized Segment at a Segment Rate of \$1.00 (resulting in \$1,000 in fees paid to Eyeota) and 30% of the active unique profiles within the Anonymized Segment are attributable to the Provider, the amount added to the Provider Revenue Pool is \$300.