

EXHIBIT 19

Master Advertiser Service Agreement

This Master Advertiser Service Agreement (“**Master Agreement**”), effective as of January 1, 2006, (the “**Effective Date**”), is made by and between:

Commission Junction, Inc., a Delaware corporation, its parent, ValueClick, Inc. and international subsidiaries of ValueClick Inc. identified on Service Orders (collectively, “**CJ**”), on the one hand, and

eBay Inc., a Delaware corporation, its subsidiaries and affiliates (“**eBay**”) on the other hand (each, a “**Party**” and, collectively, the “**Parties**”).

RECITALS

WHEREAS, CJ is an application service provider and operates Network Services that facilitate pay-for-performance marketing programs.

WHEREAS the Parties, have entered into the following agreements pursuant to which CJ provides certain services related to affiliate marketing programs for certain eBay related entities:

- eBay Inc.’s contract for ***eBay US. Web site and Half.com Web site*** Advertiser Service Agreement, dated August 1, 2003, between eBay, Inc. and Half.com and CJ
- ***eBay Australia and New Zealand Pty Ltd*** dated as of April 6, 2001 *for eBay Australia and New Zealand* (www.ebay.com.au and <http://pages.ebay.com/nz>)
- eBay International AG’s agreement for ***eBay Canada*** (www.ebay.ca) *and eBay UK* (www.ebay.co.uk) Merchant Services Agreement undated
- ***eBay Canada*** (www.ebay.ca) Merchant Service Agreement undated
- eBay International AG’s agreement for ***eBay China*** (www.ebay.com.cn): Vantage Advertiser Services Agreement for eBay China program only dated as of February 8, 2005
- eBay International AG’s agreement for ***eBay U.K*** (www.ebay.co.uk). Heads of Agreement (“Heads”) *dated January 1, 2005* as assigned from CJ to Valueclick Europe Limited (“Valueclick”), and as amended by the First Amendment to the Heads with an effective date of 1 October 2005.
- eBay International AG’s agreement for ***eBay India / Baazee*** (www.ebay.in) Vantage Service Agreement dated as of January 6, 2005
- eBay International AG’s agreement for ***eBay Belgium*** (www.ebay.be) */Netherlands*(www.ebay.nl) Advertiser Services Agreement dated as of June 23, 2004, with eBay Belgium assigned to ValueClick Sarl as of August 1, 2005

- eBay International AG with respect to the eBay web sites aimed at residents of *Italy*(www.ebay.it/)/ *and Spain* (www.ebay.es) Access Advertiser Services Agreement dated as of September 20, 2004
- *eBay France* (www.ebay.fr) Advertiser Services Agreement dated as of January 17, 2005 entered into between eBay International AG and Commission Junction, Inc., and assigned to ValueClick Sarl as of August 1, 2005.
- *eBay Ireland* (www.ebay.ie) letter agreement entitled "Agreement for the provision of advertising services by Commission Junction, inc. ("CJ") to eBay International AG ("eBay") in respect of www.ebay.ie dated June 2005 and signed by eBay on June 8, 2005.
- (The above agreements collectively referred to herein as the "**Original Agreements**").

WHEREAS the Parties desire and hereby agree to (a) replace eBay Inc.'s contract for the *eBay US Web site and Half.com: Web site* with this Agreement as of the Effective Date, and (b) terminate each of the above noted agreements and replace them in their entirety with this Agreement as of the later of January 1, 2006 and the execution date of the relevant Service Order dealing with the web site(s) covered by such Original Agreement. Notwithstanding, each eBay and CJ entity may agree to keep their current terms and arrangements in place as agreed upon in a new Service Order.

WHEREAS, Without limiting the foregoing, the parties acknowledge and agree that eBay International AG entered a contract with ValueClick Deutschland GmbH, dated as of March 11, 2005, for CJ to operate a Program for eBay Germany (www.ebay.de) (such contract, as may be amended from time to time "the German Contract"). The parties hereby agree to maintain the German Contract as a standalone agreement specific to eBay Germany and this Agreement shall not supersede the German Contract.

WHEREAS This Agreement shall serve as the Master Agreement pursuant to which various eBay subsidiaries, divisions, and corporate affiliates may order Network Services for their respective web sites pursuant to signed Service Orders, based on terms and conditions set forth below. To be clear, this Agreement will set forth the basic service terms, compensation, and legal obligations of the parties. The parties will also execute an individual Service Order (defined below) for each eBay Web site for which CJ shall provide Network Services. The Service Order will document any changes to compensation (including any changes to the qualifying action(s) that will generate Payouts to Publishers), services and any resource commitments for the specific eBay Web site.

WHEREAS Commission Junction, Inc. shall be the CJ entity performing all services for the eBay US Web site and Half.com Web site, except that the parties may agree to have certain Program tracking activities be performed by MediaPlex, another ValueClick subsidiary.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Definitions.** Unless otherwise defined in a Service Order (defined below) for a particular eBay Web site, capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in this Section.

- 1.1 “Active Confirmed Registered User” or “ACRU”** means a User who (a) registers on the eBay Web site from a Publisher’s Link (on an eBay Publisher’s Web Page, subscription email, and/or on a third party’s Web site), (b) confirms his or her registration with an eBay-supplied password sent by e-mail and either bids on or uses eBay’s instant buying functionality to purchase an item on the applicable eBay Web site within thirty (30) days of such User’s registration confirmation date, and (c) does not have an account with eBay at the time of registration. Provided that the conditions of 1.1 (a)-(c) are met, the last web site represented by a cookie immediately before a user’s registration on the applicable eBay Web site will receive credit for the ACRU.
- 1.2 “Ad Content”** means the eBay creative collateral provided by eBay for promotions and Links for display or use by CJ and Publishers as provided in this Agreement. Ad Content includes, without limitation banners, buttons and promotional text given to CJ for promotional display by CJ or Publishers. As used herein, Ad Content does not include any user-generated content or Promoting Content (defined below) created by Publishers.
- 1.3 “eBay Listing”** means a listing of item(s) for sale that are placed by third parties on an eBay Web site.
- 1.4 “Advertiser” or “eBay”** means eBay Inc. and/or the relevant eBay subsidiary, division, or corporate affiliate listed on a Service Order.
- 1.5 “Campaign”** means a pay-per-sale, pay-per Lead (as defined in Section 1.14) or pay-per-click promotion and/or such other User action that eBay designates as qualifying for a Payout in connection with eBay’s Program.
- 1.6 “Content”** means the logos, trademarks, service marks, tradenames and/or copyrighted material of a Party provided by it to the other Party for use under the terms of this Agreement, and shall be referred to herein as either the “eBay Content” or “CJ Content” as applicable.
- 1.7 “CRU”**, unless otherwise defined in a Service Order, means a User who (a) registers on the applicable eBay Web site from a Link on an eBay Publisher’s Web page, subscription e-mail, and/or on a third party’s website, (b) confirms his or her registration with an eBay-supplied password within the cookie duration period set by eBay in its then-current Special T’s & C’s or on the Detail Page for such local eBay Web site, and (c) does not have an account with eBay at the time of registration. Provided that the conditions of 1.7 (a)-(c) are met, the last web site represented by a cookie immediately before a user’s registration on the applicable eBay Site will receive credit for the CRU.
- 1.8 “eBay’s Account”** means a memo account that CJ maintains to record and manage payment of Payouts and Transaction Fees for each eBay Web site under the Program. Separate eBay Accounts will be maintained for each eBay Web site.
- 1.9 “eBay US Web site”** means the Web site owned and operated by eBay, directed at residents of the United States, and accessible at www.ebay.com,

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and any other eBay Web site in the U.S. (excluding the Half Web site) as may be designated by eBay from time to time.

- 1.10 “eBay Web site”** means the web site of the relevant eBay entity listed in the applicable Service Order.
- 1.11 “Half Web site”** means the Web site owned and operated by eBay Inc. and accessible at half.ebay.com.
- 1.12 “Intellectual Property Rights”** shall mean worldwide statutory and common law rights associated with: (a) inventions that are the subject of patents and patent applications; (b) works of authorship, including copyrights, copyright applications, copyright registrations and “moral rights”, designs; (c) the protection of trade and industrial secrets and similar confidential or proprietary information; (d) trademarks, service marks, tradenames, corporate names, shop signs, domain names, or similar rights with respect to identification of source or origin; and (e) applications, divisions, continuations, renewal, extensions and re-issuances of any of the foregoing, now existing or acquired in the future.
- 1.13 “Internet”** means the internet as it currently exists, including, but not limited to, its associated World Wide Web, hypertext transfer protocol (http), file transfer protocol, wide area information servers, gopher services, telnet services, Usenet services, listserv services, electronic mail, and connected intranets generally available to the public (whether freely or through subscription), as well as all currently existing and future content delivery systems served through a computer system over a network using standard protocols, such as other protocols to wireless Internet, SMS viewers, HTML browsers, and HDML browsers.
- 1.14 “Lead”** means a promotion in which eBay compensates a Publisher when a User that Links to eBay’s Web site from such Publisher Link completes an action designated by eBay that identifies potential customers for eBay, such as, but not limited to, completing a form or other mechanism.
- 1.15 “Link”** means a hyperlink or click from a Publisher Web site, subscription e-mail, paid search link on a search engine site, Promoting Content, and/or approved software (e.g., a desktop plug-in) as outlined in the Commission Junction Publishers Service Agreement and the eBay US Program Special Terms and Conditions through an Internet connection to an eBay Web site.
- 1.16 “Network Services”** means the services that CJ provides to eBay and Publishers to facilitate the operation of performance marketing programs via the Internet, including, without limitation, the services that CJ provides to eBay pursuant to this Agreement and any included in the Service Order(s).
- 1.17 “New Buyer”** means a person: (a) who has made a confirmed purchase at the Half Web site within fifteen (15) days of his or her original visit to the Half Web site (the “Time Period”) through a Link, and (b) who has not made a purchase prior to such confirmed purchase on the Half Web site. eBay may

change the Time Period upon seven (7) days' prior written notice to CJ and CJ will inform eBay's Publishers accordingly.

- 1.18 **"Payout"** means the financial compensation paid to Publishers for the User actions (*e.g.*, a click, sale or Lead) that eBay designates as eligible for compensation under an eBay Campaign(s) for a particular eBay Web site, including incentive payments. Without limiting the generality of the foregoing, Payouts may be based on ACRUs, Qualified Bids, Qualified BINs, New Buyers and incentives. eBay retains the right in its sole discretion to modify its Payout terms for various eBay Web Sites in any fashion from time to time during the Term (as defined in Section 8.1 below) in accordance with Section 4.5 below. Unless otherwise stated therein, the term "Payout" as used in the Service Orders refers solely to the Payouts made for qualified activity on that particular eBay Web site listed in such Service Order.
- 1.19 **"Program"** means eBay's performance marketing program for all eBay Web sites that CJ facilitates as part of the Network Services in which Publishers participate to earn Payouts in accordance with the guidelines established by eBay.
- 1.20 **"Promoting Content"** means the content promoting an eBay Web site or eBay Web site content within the framework of the Program, which is created and or placed by Publisher(s) on third parties' Web sites, including when expressly authorized by eBay, the content obtained by Publisher(s) via eBay's API or otherwise.
- 1.21 **"Publisher"** means a person, entity (other than eBay or CJ) or its agent that provides and operates Links
- 1.22 **"Publisher Account"** means the memo account that CJ maintains for a Publisher to record, manage and disburse Payouts to such Publisher.
- 1.23 **"Publisher Service Agreement"** means a service agreement by and between CJ and a Publisher regarding the Publisher's use of the Network Services.
- 1.24 **"Qualified Bid"** means the first bid placed by a User on an eBay Listing after such User comes to an eBay Web site from a Link and places a bid on an item in an eBay Listing within the cookie duration period (as measured from the date of the original bid cookie being dropped) specified in the relevant Service Order or then-current Special T's & C's or Detail Page for that eBay Web site.
 - 1.24.1 Unless otherwise stated in a Service Order or its then-current Special T's & C's or Detail Page, the cookie duration period for Qualified Bids on the eBay US Web site is seven (7) days following the original bid cookie being dropped, and multiple bids per click on the eBay US Web site may count as Qualified Bids so long as they are made within that cookie duration period and otherwise meet the requirements stated herein.

- 1.24.2 If other eBay Web sites plan to compensate for multiple bids per click, they will specify that, and the applicable cookie duration period, in their Service Order, Detail Page and/or Special Ts & Cs.
- 1.25 “Qualified BIN”** means the first instant BIN purchase by a User on an eBay Listing after such User comes to an eBay Web site from a Link and uses eBay’s BIN functionality to purchase an item in an eBay Listing within the cookie duration period (as measured from the date of the original BIN cookie being dropped) specified in the relevant Service Order or then-current Special T’s & C’s or Detail Page for that eBay Web site.
- 1.25.1 Unless otherwise stated in a Service Order or its then-current Special T’s & C’s or Detail Page, the cookie duration period for Qualified BINs on the eBay US Web site is seven (7) days following the original BIN cookie being dropped, and multiple BINs per click on the eBay US Web site may count as Qualified BINs so long as they are made within that cookie duration period and otherwise meet the requirements stated herein.
- 1.25.2 If other eBay Web sites plan to compensate for multiple BINs per click, they will specify that, and the applicable cookie duration period, in their Service Order, Detail Page and/or Special Ts & Cs.
- 1.26 “Service Order”** means written addendums to this Master Agreement which identify specific terms and conditions applicable to the eBay entity’s Program identified in such Service Order. Each Service Order, which shall be incorporated into this Master Agreement by reference and made a part hereof, shall contain additional terms and conditions that are specific to the eBay Web site that is the subject of such Service Order. Each Service Order shall specify (a) the applicable eBay Web site (b) any specific CJ services to be provided not mentioned already identified in this Agreement, (c) any specific CJ personnel commitment, (d) cookie duration (of no less than one (1) day, and (e) pricing rate and structure. To be valid, a Service Order must be executed by both parties.
- 1.27 “User”** means a person who Links to an eBay Web site to access eBay Listings from a Publisher Web site.
- 1.28 “Web site”** means a domain or portion of a domain within the World Wide Web portion of the Internet.
- 1.29 “Winning Bid”** means any bid or multiple bids if and as set forth in the eBay Special Ts & Cs or Detail Page for the applicable eBay Web site placed after a user is directed to such eBay Web site from a Program Link (within 7 days of the original bid cookie being dropped) and such bid becomes the successful bid entitled to the product or service.

2. Relationship.

- 2.1 Agreement Overview.** CJ shall provide various services, including without limitation the Network Services, to eBay according to this Agreement and

various written Service Orders which the parties may agree to from time to time. Unless otherwise approved by eBay in writing, CJ will provide, without limitation, all Services and offerings listed in Section 5.8 to each eBay Web site. Current Programs, and new future Programs, will be placed into two (2) categories of eBay's Web Sites, ("Existing eBay Marketplaces," and "New eBay Marketplaces", which will determine basic terms, conditions, pricing and service levels unless otherwise agreed by the parties in writing. In addition, certain enhanced network monitoring will be provided to Large Marketplaces (as defined in Section 8). The term "Network Services" as used in this Agreement shall also be deemed to include all services set forth in this Agreement and all Service Orders.

2.2 Conflicting Terms.

- 2.2.1 **Pre-Existing Agreements.** The Original Agreement dealing with the eBay US Web site and Half web site is replaced with this Agreement as of the Effective Date, and the parties hereby agree to terminate each of the other Original Agreements and replace them in their entirety with this Agreement as of the later of January 1, 2006 and the execution date of the relevant Service Order dealing with the web site(s) covered by such Original Agreement. In the event eBay has an existing agreement(s) or addendum with CJ for Network Services on a particular eBay Web site, and that agreement(s) is not superseded by a Service Order to this Agreement (a "Pre-Existing Agreement"), such Pre-Existing Agreement shall be supplemental to this Agreement and shall remain in full force and effect to govern the particular relationship between the parties as set forth in such Pre-Existing Agreement.
- 2.2.2 **Controlling Agreement.** In the event of any conflict between this Agreement and a Service Order, the Service Order will control solely with respect to that specific eBay Web site's Program.

2.3 Program Overview.

- 2.3.1 **General.** CJ will provide the Network Services to eBay according to the terms of this Agreement and any Service Orders. Subject to the terms and conditions of this Agreement, as part of the Network Services, CJ will facilitate the administration and operation of eBay's Program for each eBay Web site identified in this Agreement and on any Service Order.
- 2.3.2 **Changes to Program Details or Campaigns.** The details of eBay's Program and any Campaigns shall be contained within eBay's "Detail Page" and/or, if used, in the Special Terms and Conditions ("Special Ts&Cs") for the applicable eBay Web site. For each eBay Web site, eBay must provide CJ with a copy of eBay's Detail Page or Special Ts&Cs content at least five (5) business days prior to eBay's Program being activated solely for CJ's review for consistency with the Network Service. To revise eBay's Detail Page, including domain name, and/or Special Ts&Cs, eBay must submit the content to CJ for review solely for consistency with the Network Service and upon finalization of the content

CJ shall notify eBay's Publishers with a minimum of 7 days written notice. Notwithstanding the preceding, nothing contained on eBay's Detail Page or Special Ts&Cs may directly conflict with the terms and conditions contained in this Agreement or the Publisher Service Agreement. Further, in the event of any inconsistency between eBay's Detail Page or Special Ts&Cs with the terms and conditions contained in the Publisher Service Agreement, then eBay's Detail Page and/or Special T's& C's, as applicable, shall control with respect to the Publishers' participation in eBay's Program. CJ will facilitate the administration of such updated Detail Page and/or T's&C's in accordance with the updated terms; provided that such updated terms do not directly conflict with the terms and conditions of this Agreement.

2.3.3 eBay Web Site Content. Neither eBay nor CJ shall willfully mislead others with respect to the Program. Further, upon receiving proper notice from CJ, a Publisher or any third party in accordance with the notice procedures posted on the applicable eBay Web site, eBay will follow its standard published practices in dealing with reports of links (including, without limitation, any Links) or content on any eBay Web site that promote any of these types of content: illegal, libelous, defamatory, obscene, abusive, cracking, hacking or warez, or the offer of any illegal good or service, or links to a Web site(s) that does so. CJ may, but is not obligated to, review eBay's Web site(s), Ad Content or any other information that eBay provides to CJ with respect to the Program. As between the Parties, eBay shall remain solely responsible for eBay's activities, any content on any eBay Web site (excluding eBay Listings) and any Ad Content.

2.3.4 Publisher Termination Overview; No Participation Guarantees. eBay has the sole authority to add and remove Publishers from its Program in accordance with this Agreement and CJ will comply with all such eBay instructions regarding adding and removing Publishers. Notwithstanding the foregoing, CJ may terminate any Publisher without prior notice to eBay if such Publisher: (a) violates the terms and conditions of eBay's Program; or (b) violates CJ's Publisher Service Agreement ("PSA"). In addition, CJ may terminate any Publisher with notice in accordance with the PSA. CJ agrees that eBay (a) has sole control over the size of the Program and (b) has not made any guarantees with respect to the amount of Payouts, number of Publishers or other activity it will agree to maintain via the Program during the Term. eBay agrees that CJ has not made any guarantees with respect to the number of ACRUs eBay will gain from the Program.

2.4 Non-Exclusive. Other than with respect to the Program for the eBay US Web site as described below, this relationship is not exclusive and eBay may engage other service providers to administer, or may elect to directly offer, a marketing program that is substantially similar to the Program. Similarly, unless otherwise stated in a Service Order, nothing in this Agreement will restrict CJ's ability, in its sole discretion, to operate programs for and to

provide services to other companies that are substantially similar to the Program and/or to the services that CJ provides to eBay hereunder. During the Term, eBay agrees not to launch a competitive affiliate marketing program for the eBay US Web site substantially similar to the Program. Nothing herein shall prohibit eBay from acquiring, developing, and/or building internal functionality and services substantially similar to the Program during the Term; however, eBay shall not publicly launch any such internal offering for the eBay US Web Site during the term of this Agreement. Further, the parties agree that eBay may directly manage its internet marketing partners' (e.g., EarthLink) participation in the Program for the eBay US Web site during the Term, and that shall not be deemed a violation of this Agreement.

2.5 Business Operations. Subject to any specific performance level guarantees in a Service Order, each Party will make reasonable commercial efforts to keep its Web sites operational on a 24 hour/ 7 days per week basis, excluding scheduled maintenance.

2.6 eBay Placement. eBay shall be listed on the non-members' home page on the CJ Web site as a "Selected Advertiser" and eBay's logo shall be displayed among the "Featured Advertiser" logos on CJ's Web site, subject to eBay's standard trademark guidelines, as set forth on **Exhibit A** hereto. eBay shall have the right to instruct CJ to remove the listing or logo(s) at any time in eBay's sole discretion.

3. Publisher Relationships.

3.1 Publishers. During the Term, Publishers may apply to eBay's Program and Campaign(s) for the opportunity to earn Payouts in accordance with this Agreement, Special Ts&Cs, and eBay's stated Campaign specifications. eBay may run an unlimited number of Campaigns and offer an unlimited number of Links through the Network Services to support such Campaigns. Upon any Publisher's (a) application to eBay's Program, (b) acceptance of any Special Ts&Cs (as defined in Section 5.7.6 below), and (c) approval by eBay, such Publisher (each, an "**eBay's Publisher**") may post the Links to eBay's Web site or Web site content that eBay provides to the Network Services in accordance with this Agreement.

3.2 Publishers' Use of Links. As part of the Network Service, CJ shall clearly disclose the following rules to Publishers for all eBay Web sites in advance when they sign up for the Program, and, except those Programs in hidden mode, shall use its best efforts to monitor and enforce (by means of warning or terminating offending Publishers in accordance with the terms of this Agreement) the Publishers' compliance with such rules:

- (a) Publishers may place or remove Links from their Web sites, subscription e-mail messages, and/or third parties' Web sites to eBay's Web site at such Publisher's discretion.
- (b) Publishers may not place Links to an eBay Web site in newsgroups, message boards, unsolicited e-mail and other types of

spam, banner networks, counters, chatrooms, guestbooks, IRC channels or through similar Internet resources, and must comply with the CAN-SPAM Act of 2003 or other applicable laws regulating commercial email.

- (c) Links may only be placed by a Publisher to an eBay Web site in a manner that is legal and unlikely to (i) mislead Users and (ii) infringe third parties' rights, and such that it is reasonably likely that the Links will deliver bona fide sales, Leads or clicks by Users to any eBay Web site.
- (d) Publishers may not cause or enable any sales, Leads or clicks to be made that are not in good faith, including, but not limited to, by means of any device, program, robot, Iframes, hidden frames, JavaScript popup windows and redirects.
- (e) Publishers shall not establish or cause to be established any promotion that (i) provides any rewards, points or compensation for clicks, sales, or Leads, or (ii) allows third parties to place Links to an eBay Web site or Web site content on a Web site or in a subscription e-mail ("**Sub-Publishers**"), unless such Publisher receives eBay's prior written permission. CJ shall treat all activity by any such Sub-Publishers as activity by the applicable master Publisher. Notwithstanding anything to the contrary herein, CJ shall promptly inform eBay of any Sub-Publisher's breach of the PSA or Special Ts&Cs, and agrees to discuss with eBay possible cures to remedy Sub Publishers' activities.
- (f) eBay may prohibit, through eBay's Campaign description, Detail Page(s) or Special T's&C's, any Publisher(s) from receiving compensation for a Payout attributable to clicks, sales and Leads made directly by such Publisher using its own Links.
- (g) eBay may establish Lead qualification parameters in eBay's Campaign description on the Network Services, including details regarding any disqualifying Leads or sales (such as multiple Lead or sale submissions).
- (h) Publishers may not operate a Web site or an email Link to Web sites that contain or promote any of the following content: misleading, abusive, violent, bigoted, counterfeiting, hate-oriented, or pornographic.
- (i) Publishers may not include or use spy ware of any kind in any manner related to their participation in eBay's Program and must comply with all applicable privacy laws.
- (j) Publishers must comply with any additional requirements listed in eBay's Detail Page(s) or Special T's&C's or otherwise

communicated to Publisher for the particular eBay Web site they seek to join as an affiliate.

3.3 eBay Termination of Publishers.

3.3.1 **For Convenience.** After eBay has approved a Publisher's application to an eBay Program, eBay may, in its sole discretion, ask CJ to terminate that Publisher, one of its Sub-Publishers, or one of that Publisher's (or Sub-Publisher's) Web sites, subscription e-mail lists, or use of Promoting Content for convenience from eBay's Program. eBay will terminate such Publishers by providing 7 days written notice (email is sufficient) with effect from the 8th day from such notice. A Publisher shall be entitled to any Payout(s) earned in accordance with Program rules prior to such Publisher's termination by eBay hereunder. eBay's termination of any Publisher in accordance with this Section and/or Section 3.3.2 below shall also terminate the license or sublicense eBay granted to such Publisher in accordance with Section 6.1 below.

3.3.2 **For Cause.** eBay may instruct CJ to terminate a Publisher and/or Sub-Publisher with less than 7 days written notice (email is sufficient) if eBay is terminating the Publisher/Sub-Publisher for breach of the material provisions of the Publisher Service Agreement or eBay's Program terms, including without limitation the Special T's and C's. CJ shall effectuate such termination immediately upon receipt of eBay's notice (email to be sufficient), and no further compensation may be earned by the Publisher/Sub-Publisher once eBay has provided such termination notice to CJ. eBay may instruct CJ to terminate a Publisher for cause based on the breach of its Sub-Publisher. During the Term, the Publisher Service Agreement shall prohibit the following:

- (a) Publisher's operation of an illegal business through its Web site and/or subscription e-mail list or Promoting Content;
- (b) Publisher utilizing illegal content on its Web site or in its subscription e-mails or Promoting Content;
- (c) Publisher's operation of a Web site or e-mail link to Web sites or any other content that contain or promote any of the following content: misleading, abusive, violent, bigoted, hate-oriented, or pornographic;
- (d) Publisher engaging in indiscriminate or unsolicited commercial advertising e-mails or other types of spam, or distributing, including or using spy ware in any manner related to its participation in eBay's Program;
- (e) Publisher placing Links to an eBay Web site in newsgroups, message boards, unsolicited e-mail and other types of spam, banner networks, counters, chatrooms, guestbooks, IRC channels or through similar Internet resources;

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- (f) Publisher causing or enabling any sales, Leads or clicks to be made that are not in good faith, including, but not limited to, by means of any device, program, executable file, robot, Iframes, hidden frames, JavaScript popup windows and redirects;
- (g) Publisher establishing or causing to be established any promotion that provides any rewards, points or compensation for clicks, sales, or Leads, or that allows Sub-Publishers to place Links to an eBay Web site or Web site content on the Sub-Publisher's Web site or in its subscription e-mails, without eBay's prior written permission;
- (h) Publisher's breach of the licensing provisions of its Publisher Service Agreement;
- (i) Publisher's breach of any Intellectual Property Right provision of the Publisher Service Agreement or other of eBay's Intellectual Property Rights;
- (j) Publisher's diluting, blurring or tarnishing the value of eBay's trademarks, trade names, and/or service marks, or if eBay reasonably believes that Publisher's use of eBay's Links is harming eBay's reputation;
- (k) Publisher's violation of any of the then-current Program terms and conditions; and
- (l) Publisher infringing any rights or law within the framework of placing or using Links.

3.4 Publisher Interaction. CJ and eBay are not responsible or liable for the actions, omissions, content, services or practices of any Publisher, any Publisher's Web site(s) and/or any Publisher's subscription e-mail(s) and/or Promoting Content unless, with respect to CJ, the harm suffered arises from or relates to CJ's failure to perform its obligations as set forth in this Agreement. CJ will promptly provide all Program Publisher contact information to eBay upon written request and eBay may freely communicate with Publishers.

4. Fees and Payouts.

4.1 Transaction Fees and Monthly Minimum Fees. In consideration of CJ's performance of its obligations hereunder, eBay agrees to pay CJ the fees set forth in this Section 4. According to the fee schedule outlined below and the terms and conditions of Section 4.6 ("Payment Terms"), unless otherwise set forth herein with respect to New eBay Marketplaces or in a Service Order, during the Term, eBay will pay to CJ a percentage of the total monthly Payout to Publishers for the applicable eBay Web site (the "**Transaction Fee**") as follows:

- 4.1.1 **Existing eBay Marketplaces.** The parties will set out the specific compensation for each Existing eBay Marketplace (e.g., eBay Inc. eBay UK, eBay China, eBay Canada, eBay Spain, eBay India, eBay France, etc) in the applicable Service Order for such country. As used herein, the term "Existing eBay Marketplace" means existing eBay Web sites for which CJ already operates a performance marketing program as of the Effective Date of this Agreement, including without limitation all eBay Web sites covered by the Original Agreements.
- 4.1.2 **eBay U.S. Web site and the Half Web site.** For the eBay U.S. Web site and the Half Web site, the Transaction Fee will be the sum of 5% of the Payout from such sites up to the (collective) monthly Payout Trigger Level, and 12% of the Payout for amounts in excess of the monthly Payout Trigger Level. As used herein, the Payout Trigger Level refers to a collective amount of Payouts made for the Half.com Web site and the eBay U.S. Web site in a given month as set out below.

4.1.2 (a) January 1, 2006 – December 31, 2006. For the period from January 1, 2006 through December 31, 2006, the Payout Trigger Level will be \$9.3 million per month

4.1.2 (b) January 1, 2007 and thereafter. For the period January 1, 2007 and thereafter, the Payout Trigger Level will be adjusted annually as follows: at the end of the calendar year, the parties will determine the average monthly Payout to Publishers (from the eBay U.S. Web site and the Half.com Web site), to which they will then add 15% to create the new monthly Payout Trigger Level for the next year.

- 4.2 **New eBay Marketplaces.** Unless otherwise set forth in a Service Order to this Agreement, for each New eBay Marketplace Program (defined below), CJ will charge a flat Transaction Fee of 15% of the Payouts to Publishers per month earned under the Program for such eBay Web site, or \$4000 per month, whichever is higher. As used herein, the term "New eBay Marketplace" means an eBay Web site for which CJ does not operate a performance marketing program as of the Effective Date of this Agreement, including any future eBay Web sites launched in a new international market, and any eBay subsidiary, affiliate or internal division which may elect to conduct separate affiliate marketing programs other than those offered for Existing eBay Marketplaces, and for which the parties execute a Service Order.
- 4.3 **Excluded Countries.** As previously noted, eBay Germany will continue to operate under the German Contract, and is not subject to the terms of this Agreement.
- 4.4 **Requested Projects.** From time to time during the Term, eBay may request that CJ perform certain development work to either: (a) improve the Network Services for the sole benefit of eBay (e.g., by adding or enhancing certain features), or (b) create unique, customized technology products or services exclusively for eBay (the work performed under either 4.1.2 (a) or (b) will be

referred to herein as "Requested Projects"). eBay acknowledges that CJ will not be required to perform any Requested Project and may decline to do so in its sole discretion. The parties hereby agree that all Requested Projects will be conducted pursuant to a statement of work ("SOW") where in the parties mutually agree in writing to the requested scope of work, deliverables, the hourly rate, appropriate legal terms (including ownership of intellectual property) and the hours required to complete the project. If no SOW is executed, the services will be deemed part of the Network Services provided hereunder by CJ for which no additional compensation will be owed. Any fees charged by CJ for Requested Projects will be limited to CJ's incremental, actual, out-of-pocket costs related solely to such work and a SOW must be pre-approved in writing by the parties. eBay will have no responsibility to pay any SOW unless such fees were agreed to in a written SOW executed by both parties. Payment must be made within 30 days from receipt of invoice, which will be sent at the completion of the project, or as otherwise agreed upon in the SOW.

4.5 Publisher Payouts and Payout Rates.

- 4.5.1 Campaign Payout Rates.** eBay shall establish through the Network Services a Payout rate for a qualifying User action for each of eBay's Campaigns. Payout rates may vary by eBay Web site in eBay's sole discretion. CJ will track all Payouts in accordance with eBay's designated Campaign Payout rate for qualified actions under the relevant Campaign. eBay may increase a Campaign Payout rate at any time without prior notice, and may decrease or discontinue a Payout or Campaign upon seven (7) days' prior written notice (email to be sufficient) to eBay's Publishers and to CJ that will become effective on the eighth (8th) day from such notice. CJ shall adjust its tracking and payment calculations when a Campaign Payout rate change becomes effective in accordance with this Section.
- 4.5.2 Extended Payout Tracking.** If eBay's Campaign is a sale or Lead Campaign, and a User does not complete an applicable qualifying action on its initial Link to eBay's Web site or Web site content, eBay's Account will be debited in the amount of the relevant Payout and the corresponding Transaction Fee if the User engages in or conducts the qualifying action within a timeframe designated by eBay for the applicable Campaign. CJ acknowledges that eBay does not want to allow double-counting of qualified actions, however, multiple Payouts for multiple actions may be acceptable if permitted in the then-current Program terms and conditions for the applicable eBay Web site. Thus, the parties agree that CJ shall use the following formula when tracking qualified actions: If a User has clicked on an eBay's Link on: (a) more than one of eBay's Publisher's Web sites or subscription e-mail lists, or (b) an eBay link on any other web site, the Payout will only be credited to an eBay's Publisher if such Publisher's cookie is the most recent eBay-related cookie placed on the User's computer. The parties acknowledge and agree that eBay may

change the cookie duration for any eBay Web site at anytime in its discretion with a minimum cookie duration of one day.

4.6 Payment Terms.

4.6.1 **Invoices.** As indicated above, CJ will separately track the services it performs for each eBay Web site, and will issue separate invoices for each such eBay Web site as follows: unless otherwise indicated on a Service Order, each eBay Web Site will receive two (2) invoices per month during the Term: one invoice reflecting Payouts for eBay Campaigns for such eBay Web site and another for the corresponding Transaction Fees related to the eBay Payouts for such eBay Web site. All invoices will be based on the previous calendar month's activity. In addition, if applicable, CJ will separately issue another invoice to eBay for any Requested Project Fees based on any such activities conducted pursuant to executed project assignment agreements in the previous month. Unless otherwise set forth in a Service Order, CJ will ensure that eBay shall receive all Payout invoices on or before the fifth (5th) calendar day in each month; provided, however, that any delay in eBay's receipt of an invoice shall not excuse eBay from paying to CJ any amounts due under such delayed invoice in accordance with this Section 4.6 (however the timing parameters will be extended in accordance with the length of the delay experienced in providing the invoice to eBay). All invoices for the eBay U.S. Web site and the Half.com Web site shall be sent to Accounts Payable, eBay Inc., 2145 Hamilton Ave., San Jose, CA 95125, with a copy to a member of the eBay Internet Marketing team as designated by eBay. For all other eBay Web sites, invoices will be sent to the contact person and at the address listed in the applicable Service Order, subject to eBay's right to update such contact information at anytime upon written notice to CJ.

4.6.2 **Payment Terms.** Unless otherwise set forth in a Service Order and subject to Sections 4.8 and 4.9 below, eBay will pay CJ for any undisputed Payout invoices within fifteen (15) days following receipt of invoice, and the undisputed portions of Transaction Fee invoices and any Requested Project Fees invoices within thirty (30) days following receipt of invoice. The Parties will follow the account resolution procedure set forth in Section 4.6.3 below in the event that eBay disputes any part of any of CJ's invoices. eBay may make payments to CJ hereunder via check or wire transfer. When payment is made by check, eBay's Account will not reflect payment until the check has cleared and cash has been transferred to CJ's bank account. eBay's Accounts will not accrue interest. CJ may deactivate eBay's Account for an eBay Web site for non-payment of undisputed sums that are overdue by more than sixty (60) days unless such fees are delayed by eBay pursuant to Section 4.8 or 4.9. However, before deactivating any eBay Account, CJ will notify eBay. Subject to Section 4.6.3 (tracking discrepancies) and Section 4.7 (audits) below, for so long as CJ is solely responsible for tracking Program metrics pursuant to Section 5.2 of this Agreement, the number or amount of sales, Leads and/or clicks, the credits for Payouts, and the charges for Chargebacks,

Requested Project Fees, as calculated by CJ in accordance with the terms of this Agreement shall be final and binding on eBay. Unless otherwise indicated on a Service Order, all payments shall be made in U.S. Dollars, and eBay's Accounts balances shall appear in U.S. Dollars.

4.6.3 **Account Resolution Procedure for Tracking Discrepancy.** eBay reserves the right to separately track (either internally or via a third party) monthly Program activity. In the event that eBay's tracking data differs from the data reflected in CJ's invoices, eBay will pay the undisputed portion of the invoices in accordance with the timeframes set forth above in Section 4.6.2 (or the applicable Service Order) and the Parties will work cooperatively during the immediately following thirty (30) day period to attempt to resolve the tracking discrepancy. If applicable, CJ will issue corrected invoices reflecting the mutually-agreed upon final monthly figures for each of the eBay Payout and Transaction Fee invoices, which eBay will then pay in accordance with Section 4.6.2 (or the applicable Service Order). In the event that the Parties are unable to resolve a dispute, eBay may exercise its audit rights under Section 4.7 below.

4.6.4 **Payouts to Publishers.** CJ will issue Payouts to eBay's Publishers from the funds in eBay's Account for the applicable eBay Web site, subject to the availability of such funds.

4.7 **Audit.** CJ will maintain proper records and books of account relating to the transactions contemplated by this Agreement. Any time during the Term and for six (6) months thereafter, eBay shall have the right, at eBay's sole expense (except as provided in this Section), to audit not more than four (4) times in any twelve (12) month period (excluding any audits initiated pursuant to Section 4.6.3 above): (i) CJ's books of account relating to Payouts, Transaction Fees and any Requested Project Fees (a "**Financial Audit**"); and (ii) CJ's compliance with the terms of this Agreement regarding system security, and the storage and use of eBay Data (as defined in Section 7.2 below) (a "**System Security Audit**"). eBay agrees to provide CJ with at least ten (10) days' prior written notice of a Financial Audit or a System Security Audit and agrees to perform all Financial Audits and System Security Audits during CJ's regular business hours and in such a manner so as not to interfere with CJ's normal business activities.

CJ agrees to provide eBay, or an independent third party auditor mutually agreed upon by the Parties, reasonable assistance and any documentation, files or access necessary to perform a Financial Audit or a System Security Audit in accordance with this Section; provided however, that any independent third party auditor shall execute a confidentiality agreement with CJ in a form mutually acceptable to the Parties that prohibits such independent third party auditor from disclosing or using information obtained in connection with any Financial Audit or a System Security Audit, except to eBay as necessary to provide the results of any such Financial Audit or System Security Audit.

If a Financial Audit reveals overcharging or a tracking discrepancy of ten percent (10%) or more, CJ shall immediately pay the reasonable cost of such

Financial Audit. In the event that a Financial Audit reveals that eBay has been overcharged in any amount, CJ will immediately pay to eBay any such overcharged amounts plus interest at 1% per month from the date of the overcharging. This Section 4.7 will survive the expiration or termination of the Agreement for a period of six (6) months.

4.8 Chargebacks. A "Chargeback" means that the Transaction is not eligible for a Payout, and only occurs in the following circumstances: (a) product return (other than by reason of systemic defects or due to a product recall); (b) duplicate entry or other clear error; (c) non-bona fide Transaction where there is no Publisher, (d) failure to comply with the Publisher Service Agreement, eBay's Special T's and C's or this Agreement, (e) fraud, (f), with respect to a sale, non-receipt of payment from, or refund of payment to, the Visitor. eBay may initiate Chargebacks through the Network Services up to and including the tenth (10th) day of the month following the month in which a relevant Payout was credited (the "**Chargeback Period**"). Subject to the immediately following sentence, CJ will credit Chargebacks to eBay's Account if: (i) such Chargebacks are initiated within the Chargeback Period; (ii) CJ is able to verify that a relevant Payout is entitled to a Chargeback; and (iii) CJ is able to debit such amount from the relevant Publisher. In addition, CJ will credit a Chargeback to eBay's Account for any ACRU or CRU terminated within thirty (30) days following qualification as an ACRU or CRU if such termination was the result of eBay's internal "Trust and Safety" initiatives. Regardless of when eBay initiates a Chargeback in accordance with this Section, eBay's Account shall be credited with the Transaction Fees associated with any and all Chargebacks initiated by eBay through the Network Services and reasonably verified by CJ in accordance with this Section (e.g., eBay to provide CJ with copies of the "Item Not Received" form submitted by buyers as reasonable verification for fraud-related Chargebacks where a buyer did not receive the item purchased). In the event that CJ is not able to recover a CJ-verified Chargeback amount from such Publisher, eBay agrees that it shall look solely to such Publisher and not to CJ for reimbursement of such Payout amount unless the loss arises from or relates to CJ's failure to perform its obligations as set forth in this Agreement. Under extenuating circumstances, CJ agrees to assist eBay by withholding an equivalent Chargeback amount from an offending Publisher's Payout in an attempt to recover the prior month's Chargeback amount as mutually agreed upon by CJ and eBay; such assistance by CJ involves a time-intensive manual process and should only be requested in rare occasions.

4.9 Extended Payment For Suspicious Activity. New transactions may be changed to Extended status by eBay only in circumstances where: (a) eBay is verifying a suspicious activity. If the Transaction is Extended, the Chargeback Period is extended through the 10th of the second month after the date of the Transaction.

4.10 Taxes. Unless otherwise specified in a Service Order, all prices/fees hereunder, including all Transaction Fees, shall include any applicable taxes such as but not limited to income, gross receipts, sales, use, ad valorem, value added,

franchise, profits, withholding, excise, stamp, business, occupation, customs, duties, or similar fees. If the withholding of any tax is required in respect of any payment by eBay to CJ hereunder, eBay shall [i] withhold the applicable amount from such payment and [ii] pay such amount to the relevant authorities in accordance with any applicable laws in the relevant country or countries. Upon request from CJ, eBay shall provide a copy of the tax receipt documenting payment of the tax to the relevant authorities.

eBay shall notify CJ at least 15 days prior to the payment due date of its intent to withhold taxes from said payment. Upon such notification, CJ agrees to complete and provide to eBay or if required, to the applicable taxing authority, at least 10 days prior to the payment due date, such forms, certifications or other documents as may be reasonably requested by eBay, in order to reduce or exempt withholding taxes with respect to payments made to CJ when and where applicable by law.

If it is later determined that eBay should have withheld and/or paid additional tax but did not withhold and pay such tax, then CJ shall either remit the applicable tax payment to the tax authorities directly, or pay eBay the applicable tax, and hold eBay harmless from any penalties or interest thereon. This Section 4.10 will survive expiration or termination of this Agreement.

5. CJ Services. In consideration of the Transaction Fees, CJ will provide eBay with the services set forth in this Section 5 (the “**Services**”).

5.1 Overview. On a per eBay Web site basis, CJ will track critical information regarding Payouts along with reporting that sets forth the number of ACRUs, CRUs, New Buyers, Qualified Bids, Qualified BINs, and/or such other metrics as eBay may specify as relevant under eBay’s then-current Program from each Publisher that results directly from Links placed by Publisher through the Network Service. CJ will bill eBay for Payouts (subject to “Chargebacks”, as defined in Section 4.8 above), and related Transaction Fees, and make payment to Publisher of such Payouts in accordance with the terms of this Agreement. eBay and Publishers shall be able to produce informational reports (with respect to Publishers, only regarding such Publisher’s activities) through the Network Service concerning Payouts, along with reporting that sets forth the number of ACRUs, CRUs, revenue share commissions, New Buyers and Qualified Bids and Qualified BINs (and/or such other metrics as eBay may specify as relevant under eBay’s then-current Publishers Program), as applicable from each Publisher that determines such Payout and any other leads attributed to the eBay Account.

5.2 Tracking and Reporting. For so long as CJ is providing the tracking for eBay’s Program, eBay shall include and maintain within its Links hereunder CJ’s pixel imaging impression tracking code and action tracking code (collectively, the “**Tracking Codes**”) to facilitate CJ’s tracking of Users’ actions resulting from an eBay’s Publisher to any eBay Web site or Web site content. Unless otherwise instructed by eBay, CJ will track critical

information regarding eBay's Program through the Tracking Codes, and review User actions using a confirmation process that CJ will perform on eBay's behalf. CJ will provide to eBay reports that contain information segmented by Publisher regarding Payouts, ACRUs, CRUs, revenue share commissions, New Buyers, Qualified Bids, Qualified BINs, and/or such other metrics as eBay may reasonably request regarding the results of Links placed by eBay's Publishers through the Network Services. Each eBay Publisher shall be able to produce informational reports through the Network Services concerning Payouts attributable to such Publisher. Notwithstanding anything to the contrary herein, in the event that CJ is unable to track required information or eBay is unable to achieve its reasonable commercial objectives using CJ's tracking infrastructure, CJ will make all reasonable commercial efforts to support additional tracking system(s) (internal and/or external) as may be requested by eBay. During the Term, eBay or CJ may elect to update or deactivate the Tracking Codes to comply with applicable law, or to implement a new monitoring system whereby eBay and/or MediaPlex will track various User actions and report such activity back to CJ using specialized code. CJ will then perform the remaining functions set forth in this Section 5.

5.3 Promotional Services. CJ will provide the following promotional services to eBay regarding eBay's Program (all such promotions to be subject to eBay's prior review and approval):

- 5.3.1 **Network Services Messages and Press Releases.** CJ will promote eBay's Program to Publishers via the Network Services messaging system and the CJ Publisher Newsletter (subject to eBay's approval of the language and/or promotional materials). If requested by eBay, CJ will make a press release announcement regarding eBay's Program, with the content, nature and timing of any such press release(s) to be mutually agreed upon by the Parties;
- 5.3.2 **Publisher Targeting.** Subject to eBay's prior approval, CJ will promote the Program to targeted Publishers (existing or potential) on a monthly basis, both joined and non-joined within and outside the Network Services, using CJ-authored or sponsored performance management and marketing tools. Such tools will include, but not be limited to: (a) placement in Network Services-wide advice campaigns (e.g., monthly What's Hot e-mail campaigns, messages to the publishers' Member Home page, references in CJU educational articles), (b) CJ Marketing promotions (e.g., eBay Brochure, CJ.com Home Page – Case Study and Featured Client placement), and (c) speaking opportunities at CJ sponsored events. CJ may also seek to promote eBay using cross promotions with other Network Services advertisers. In addition, CJ shall include eBay in as many categories of the "Meet the Advertiser" section of the CJ Web Site as may be requested by eBay at no additional charge to eBay. All promotional efforts in this Agreement are subject to eBay's prior review and approval on a case-by-case basis.
- 5.3.3 **Publisher Recruiting.** The parties will determine each quarter during the Term the desired Publisher recruitment efforts they will strive to achieve

5.4 Tax Forms.

5.4.1 **United States.** CJ will process and mail U.S. tax forms to Publishers (Form 1099 or similar) in accordance with federal mailing deadlines

5.4.2 **International.** CJ will process, prepare and mail all international tax forms to Publishers required under international law in accordance with such laws' stated deadlines.

5.5 Support.

5.5.1 **United States.** For eBay's U.S. and Half.com Web sites, CJ will provide eBay and Publishers with access to CJ's client services via the automated members area interface, and the CJ help desk and will provide eBay with additional after-hours support (via cell phone access to eBay's Program Manager and Account Manager) until 10pm PST Monday-Friday.

5.5.2 **International.** For all other eBay Web sites, CJ will provide eBay and Publishers with access to CJ's local client services via the member interface and local help desk, Monday-Friday from 9 am to 5 pm local time, and will provide eBay with additional after-hours support (via cell phone access to eBay's designated CJ representative for the applicable eBay Web site) until 8pm in the applicable eBay's Web Site's time zone, Monday-Friday.

5.6 **Ad Serving.** CJ will serve eBay's Ad Content for all Links unless otherwise requested by eBay;

5.7 Dedicated CJ Resources for eBay

5.7.1 **For eBay U.S. and Half.com Web Site.** During the Term, CJ will consistently dedicate a reasonable and mutually agreeable level of CJ personnel (e.g., account manager(s), program manager(s), and product development resources) to adequately support the Program on the eBay US Web site and Half.com Web site.

5.7.2 **Other eBay Sites.** Any other CJ resource dedication for a particular eBay web site (i.e. eBay.co.uk, eBay.co.au, eBay.co.fr, or new countries), that currently exists or is new, will be set forth in the applicable Service Order.

5.7.3 **New eBay Marketplaces.** New eBay web sites, affiliates, subsidiaries or internal divisions (i.e. Paypal, Kijiji, Shopping.com, Prostores) shall not be supported through the CJ dedicated personnel already assigned to support existing eBay Web sites. New eBay marketplaces will be supported by a reasonable and mutually agreeable level of CJ personnel.

5.8 **CJ Vantage Services.** CJ will provide to eBay the following CJ Vantage services for all eBay Web sites at no additional cost to eBay:

- 5.8.1 **Multiple Actions.** eBay may offer more than one action to Publishers (e.g., a sale and a Lead, more than one sale, etc.) in real-time.
- 5.8.2 **Item-Based Commission Functionality.** eBay will be able to compensate Publishers on an item-based level;
- 5.8.3 **Product Catalog.** eBay may use the Product Catalog functionality. This functionality accommodates numerous predefined and custom link formats and enables eBay to distribute product-specific data to Publishers and support keyword searches by eBay and Publishers;
- 5.8.4 **Scheduled Reporting.** eBay will have access to a diversity of one time and regular reports. Various data formats are supported;
- 5.8.5 **Diversity of Tracking Technology.** Receipt of integration alternatives upon request such as modified pixel tracking technology, data transfer tracking for interim processing directly by eBay (*i.e.*, co-tracking), and rapid integration with standard pixel tracking technology.
- 5.8.6 **Special Ts&Cs** – eBay may offer supplemental terms and conditions through the Network Services to Publishers via a pop-up agreement (“**Special Ts&Cs**”) that eBay Publishers must “click-through” to join eBay’s Program. The Special Ts &Cs may vary by eBay Web site in eBay’s sole discretion. eBay will disclose any Special Ts&Cs (and any revisions thereof) to CJ. CJ will host and keep available for network Publishers’ consultation at any time the Special Ts&Cs and assist eBay with set-up, maintenance and recordation of Publisher “click-throughs” of such Special Ts&Cs. Upon eBay’s request, CJ will update the Special Ts &Cs for eBay Web sites. eBay must provide CJ with any revisions to the Special Ts&Cs. CJ will inform eBay’s Publishers in writing of (i) the revisions to the Special Ts&Cs, and that (ii) such revised Special Ts&Cs will become effective on the eighth (8) day following such written notice to all Publishers who do not terminate their participation in the Program during such seven (7) days notice period.
- 5.8.7 **Enhanced Program Listings.** CJ will support bold font, logo listing and additional category listing for eBay’s Program.
- 5.8.8 **Advanced Technical Support.** Unless otherwise stated herein or in a Service Order, all eBay Web sites will receive as needed technical support from CJ, coordinated through the applicable CJ Program Manager for the eBay Web site in question.
- 5.8.9 **Member messaging.** eBay may use the CJ email communication tool that allows eBay to communicate with Publishers.
- 5.8.10 **Network Quality.**
 - (a) Standard Monitoring. At a minimum and without limiting any other provision of this Agreement or any Service Order, CJ will

use its best efforts to detect and monitor the following for every eBay Web site in the Program (including without limitation the activity of Sub-Publishers with respect to such sites), except those Programs in hidden mode: forced clicks, hijacked cookies, undisclosed or non-legitimate incentive sites, self-inflated leads, and non-compliance software. CJ will monitor and identify compliance violations and institute an appropriate escalation tree toward termination from the respective eBay Web site's Program (for non-compliant behavior) or deactivate Publishers and/or Sub-Publishers (for expressly fraudulent behavior). CJ will defer to eBay where non-compliant or fraudulent behavior is identified only by backend eBay data to which CJ has access. In the event that remediation is required or suggested, the compliance specialist will provide the eBay employee Affiliates program manager with the information necessary to make an informed decision about the relationship. As used herein, "hidden mode" means that the applicable Program is only available to certain Publishers who are either named by eBay or who meet certain eBay-specified criteria.

- (b) Enhanced Monitoring. In addition to the monitoring listed in 5.8.10(a), CJ will use its best efforts to provide network quality monitoring for eBay's Program on the Large eBay Marketplaces (defined below), such efforts to include: monitoring for compliance with eBay's Special Ts & Cs, fraud detection, monitoring for eBay brand protection, detection of CJ links on eBay seller pages (as reported by eBay), and other mutually agreed upon capabilities. Additional network quality monitoring activities may be documented in Service Orders for particular eBay Web sites. As used herein, "Large eBay Marketplaces" mean the eBay US Web site, Half Web site, eBay France Web site, eBay UK Web site, eBay China Web site, eBay Canada Web site, and any other eBay Web site where Transaction Fees to CJ from such site's Program exceed \$50,000 USD per month.

5.9 Additional Services. eBay may reasonably request that CJ perform additional services related to the Program that are not otherwise set forth in this Section 5 and CJ will undertake reasonable efforts to accommodate such requests. The Parties shall mutually agree on the nature and/or cost of such additional services when eBay requests such additional services.

6. Proprietary Rights and License.

- 6.1 License.** Subject to the terms and conditions of this Agreement, eBay hereby grants to CJ a revocable, non-transferable, non-assignable, non-exclusive, sublicensable (solely to Publishers as set forth herein), royalty-free, fully-paid up, worldwide right and license to use, reproduce, display (publicly or otherwise) and distribute from CJ's Web site: (a) eBay's Link(s), (b) Ad Content provided by eBay to CJ for the Program, and (c) all eBay Content that

eBay provides to CJ in connection with the Program for the limited purposes set forth in this Agreement. CJ may only sublicense such Link(s), Ad Content and Content, if permitted under eBay's Program, for the limited purposes of and subject to the terms and conditions of this Agreement and the Publisher Service Agreement. Each such sublicense is a revocable, non-transferable, non-assignable, non-exclusive, non-sublicensable (except to Sub-Publishers approved by eBay), royalty-free, fully paid-up, worldwide right and license solely to use eBay's approved Link and no other link to an eBay Web site. Unless otherwise expressly agreed between eBay and CJ and/or eBay and the Publishers, in no event shall CJ or any Publisher use any other link or Content to link to an eBay Web site. [However, the foregoing shall not exclude use of the Promoting Content by Publishers (e.g link on AdWords).] Unless otherwise expressly agreed by eBay, CJ and the sub-licensees shall not otherwise copy nor modify, in any way, any icons, buttons, banners, graphics files, names, Ad Content or Content that eBay has made available through the Network Services pursuant to the foregoing license. CJ and the sub-licensees may not remove or alter any copyright or trademark notices included as part of any Link. CJ undertakes to take any appropriate steps so that eBay's Publishers shall be bound by all provisions of this Agreement concerning the sub-license granted by CJ over eBay's Links, Ad Content provided to CJ for the Program, and eBay Content provided to CJ by eBay in connection with the Program. If eBay grants a Publisher permission to sublicense eBay's Links, Ad Content or eBay Content, such sublicense is sublicensable on the preceding conditions. eBay agrees that eBay's use of any CJ logos, trademarks or Links is subject to the license terms that are disclosed on the CJ Web site. The eBay logo and trademarks shall only be used pursuant to the terms of this Section 6.1 supplemented by the provisions set forth in Exhibit A to this Master Agreement.

6.2 No Challenge to Intellectual Property. Both parties acknowledge that they do not obtain any proprietary or Intellectual Property Rights in each others Content, and agree not to challenge each others proprietary rights or Intellectual Property Rights therein. The licensees/sub-licensees hereunder agree that all goodwill arising as a result of the licensor's Intellectual Property Rights shall inure to the benefit of the licensor, and that all non-licensed and/or sublicensed Intellectual Property Rights of licensor shall remain with the licensor. Licensees/sub-licensees shall not adopt any signs, tradenames, corporate names, shop signs, names, trademarks, service marks or domain names that are confusingly similar to, or in combination with any of licensor's signs, corporate names, tradenames, shop signs, trademarks, service marks and/or domain names.

6.3 Except as provided in this Agreement and solely as necessary for the Parties to carry out their respective obligations hereunder, all use of either CJ's or eBay's Content and Program materials by the other Party will be subject to such other Party's prior written approval.

7. Privacy and Confidentiality.

- 7.1 Confidential Information.** eBay or CJ may provide the other Party with information that is designated or marked in writing as, or is provided under circumstances indicating that it is, confidential and proprietary to that Party or a third party (“**Confidential Information**”). The receiving Party agrees to secure, protect and maintain the confidentiality of the Confidential Information of the disclosing Party using at least as great a degree of care as it uses to maintain the confidentiality of its own information of a similar nature or importance, but in no event less than reasonable care. “Confidential Information” shall not include information that (a) is or becomes part of the public domain through no act or omission of the receiving Party, (b) is lawfully received by the receiving Party from a third party without (i) restriction on use or disclosure and without breach of this Agreement or (ii) without knowledge by the receiving Party of any breach of fiduciary duty by such third party, or (c) the receiving Party independently knows at the time of receiving such information, as evidenced by its written records.

The information that eBay supplies to establish and maintain eBay’s Account(s) shall be eBay’s Confidential Information, excluding any contact information that eBay supplies to CJ solely for eBay Publishers to contact eBay with customer service questions. eBay shall own all data supplied by Publishers related to the Program, or derived from Publishers’ participation in the Program, which data shall be deemed eBay’s Confidential Information. eBay shall be responsible for its usage of and activity on eBay’s Account and for loss, theft or unauthorized disclosure of eBay’s password (other than through CJ’s negligent or willful conduct or omission). eBay shall provide CJ with prompt written notification to CJ, at facsimile number 805-730-8003 and by contacting CJ client services through the “Ask A Question” feature in the Network Service, of any known or suspected unauthorized use of eBay’s Account or breach of the security of eBay’s Account.

It is anticipated that CJ will track various Publisher activity for the benefit of eBay, such tracking to be done using codes, including without limitation the Tracking Codes and, potentially, via a later generation tracking/reporting system described in Section 5.2. Without limiting any other provision of this Agreement, CJ hereby represents and warrants that it will not (and shall not permit any other person or entity to) (i) use, adapt, decode, display, extract, reverse assemble, reverse compile, reverse engineer, translate, decompile, or disassemble the codes or any data or reporting related thereto; (ii) attempt to map any such codes back to determine keyword or query specific data, or (iii) attempt to utilize, leverage, repurpose, or disclose any data regarding eBay’s Program(s) with, or for the benefit of, any other party.

- 7.2 Collection and Use of Transaction Data.** Other than: (a) the information CJ receives through the Tracking Codes, and (b) any information that is disclosed directly to CJ by eBay and/or eBay’s Publishers (*e.g.*, via a data feed), CJ does not and will not collect or otherwise receive any additional proprietary or confidential information about Publishers or eBay’s Users’ transactions. All information related to Program Publishers, including without limitation the information referenced in sub-sections (a) and (b) in the immediately preceding

sentence is collectively referred to herein as the “**eBay Data**”. CJ shall treat all eBay Data as eBay Confidential Information. Subject to the terms set forth herein, CJ may internally use eBay Data, which may include information about eBay, solely to analyze Network Services trends, monitor Network Services efficiencies, maintain the integrity of the Tracking Codes and analyze eBay’s tracking statistics. Subject to eBay’s prior written approval on a case-by-case basis, CJ may use aggregated eBay Data to promote the Network Services and eBay’s Program capabilities and efficiencies to Publishers. Except as expressly provided for in Section 7.3 below, CJ will not disclose (including without limitation on its Web site), sell, rent, lease or otherwise share with any third party, any eBay Data or eBay’s Confidential Information, unless CJ is under compulsion of law, including, but not limited to, subpoena. Notwithstanding the foregoing, CJ may disclose non-personally identifiable data regarding aggregate Users’ transactions to the Publisher that referred the Users to eBay for the performance of this Agreement, however none of such data will be keyword or query specific. As part of the Network Service, at eBay’s request, CJ will provide eBay all data derived from Publishers’ participation in the Program at no additional charge.

7.3 Collection and Confidentiality of Users’ Personal Data. Without limiting the foregoing, CJ shall not disclose to any third party, other than under compulsion of law, including subpoena, eBay Data or any other personal or business information that can be linked specifically to any Users of eBay’s Web site that result directly from Links on Publisher’ Web sites and subscription e-mails, without the User’s express opt-in permission (which may be through membership to a Publisher’s subscription e-mail or Web site program). In no event shall CJ solicit, market to, or facilitate the solicitation by any third party of any User without their express permission, and in no event shall CJ solicit or market to any User or any other of eBay’s Web site members by referring to them in such communication as “eBay members,” eBay users,” or other similar designation without eBay’s prior written consent. eBay shall use its best efforts to not send CJ personally identifiable information of visitors in the transaction data. The parties acknowledge that future tracking will likely include eBay passing cookie data and transaction level detail related to “unpaid items” and Chargebacks to CJ and the parties agree that such data is not personally-identifiable information for purposes of this section.

7.4 International Data Protection Laws. Without limiting any other provision of this Agreement, CJ hereby represents and warrants that it will comply with all data and privacy protection laws, rules, regulations, ordinances, and other directives in any country for which it provides Network Services to an eBay Web site. The parties may elect to specifically name any such requirement in the applicable Service Order for the relevant eBay Web site.

8. Term and Notices.

8.1 Term Unless earlier terminated in accordance with this Section 8, the term of this Agreement shall begin on the Effective Date and continue until December 31, 2008 (the “Term”). All Service Orders, regardless of the date of execution, will run co-terminously with this Agreement unless otherwise stated therein,

such that they will all have an expiration date of December 31, 2008, subject to the parties early termination rights as set forth herein or on such Service Orders. To clarify, individual Service Orders may have earlier termination dates and any termination rights that may be set forth in such Service Orders shall be supplementary to those contained in this Agreement.

8.2 Termination.

8.2.1 **Breach.** The Agreement and/or Service Order(s) will be terminable by either Party upon written notice prior to the scheduled expiration of the Term if a Party materially breaches this Agreement or the applicable Service Order and, if the breach is curable, does not cure such breach within thirty (30) days following receipt of written notice thereof from the non-breaching Party. Notwithstanding any other provision of this Agreement, termination of or activity under one Service Order will have no bearing on any other Service Order.

8.2.2 **Breach of Confidentiality or License Rights.** Without limiting any other rights or remedies a party may have at law or under this Agreement, either party may temporarily deactivate, or terminate any Program or Service Order immediately upon notice, if the other party is in material breach of Sections 6 and/or 7 above. Such actions will only be taken with respect to the eBay Web site upon which such misdeed occurred. CJ will continue to operate the Program for all other eBay Web sties without change or penalty.

8.2.3 **By eBay For Convenience.** Anytime during the months of January 2007 and January 2008, eBay will have the option to terminate this Agreement and/or any Service Order(s) for convenience by providing ninety (90) days prior written notice to CJ. In other words, if for example, eBay provides written notice of its intention to terminate the Agreement for convenience on January 11, 2007, such termination will become effective as of April 11, 2007. If no termination for convenience notice is received in January 2007, the next opportunity for eBay to terminate for convenience will be January 2008. This right is in addition to any other at will termination rights in the Service Orders. CJ may not terminate this Agreement or any Service Order for convenience.

8.3 **Effect of Deactivation.** Upon deactivation of eBay or eBay's Account (pursuant to Section 4.6.2 above or otherwise in accordance with this Agreement) for a particular eBay Web site, CJ shall: (a) inform eBay's Publishers for the relevant eBay Web site(s), via a mutually agreed upon message, that eBay's Program has been temporarily discontinued, (b) stop distributing Links to the applicable eBay's Web site, and (c) suggest that all Links placed by eBay's Publishers for such eBay Web site be removed from such Publisher's Web sites and/or subscription e-mails and any other Web site.

8.4 **Change of Control.** By providing written notice, either Party may elect to terminate this Agreement and/or any Service Order within ninety (90) days of a Change of Control of the other Party, by providing written notice of such

termination during such period, which termination shall be effective thirty (30) days following the notice. “**Change of Control**” means any Ownership Change Event or a series of related Ownership Change Events (collectively, the “**Transaction**”) wherein a Party’s shareholders immediately preceding the Transaction do not (a) retain ownership immediately after the Transaction in substantially the same proportions as their ownership of shares of such Party’s voting stock or other voting interests immediately before the Transaction, or (b) direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the corporation or corporations to which substantially all of such Party’s assets or stock were transferred, as the case may be. An “**Ownership Change Event**” occurs if any of the following occur: (i) the direct or indirect sale or exchange in a single series of related transactions by a Party’s shareholders or other ownership interest holders of more than fifty percent (50%) of its voting stock or other voting interests; (ii) a merger or consolidation in which such Party is a party; (iii) the sale, exchange or transfer of all or substantially all of such Party’s assets; or (iv) a liquidation or dissolution of such Party. Notwithstanding the foregoing, an Ownership Change Event does not occur as a result of any transaction or series of transactions that are effected solely in connection with a (x) re-incorporation, or (y) a reorganization, re-capitalization or similar financing not in connection with the sale of all or substantially all of such Party’s assets or stock or other ownership interests.

8.5 Effect of Termination. Upon expiration or termination of this Agreement and/or any Service Order, CJ will: (i) generate the applicable final invoices for Payouts, Transactions Fees and Requested Project Fees, and eBay shall pay such final invoices in accordance with the process set forth in Section 4 above; and (ii) if applicable, pay eBay any outstanding, undisputed credit balance within thirty (30) days of termination of this Agreement. Upon expiration or termination of this Agreement or any Service Order, all licenses or sublicenses granted under this Agreement for the eBay Web site(s) listed in such Service Order(s), and if applicable, this Agreement, will terminate, and the relevant licensee/sub-licensee must immediately destroy or delete all physical and electronic copies of Intellectual Property Rights and the Confidential Information in a recipient’s possession or under a recipient’s control, and cause all Links to CJ or eBay to be removed. Without limiting the foregoing, upon expiration or termination of this Agreement and/or any Service Order, CJ will immediately destroy all Tracking Code data and material related to Program performance and certify such destruction in writing to eBay.

8.6 Transition Assistance. Upon expiration or termination of this Agreement or Service Order(s), CJ shall (a) inform the affected Publishers (via an eBay-approved message) that eBay’s Program for the applicable eBay Web Site(s) has ended, (b) stop distributing Links to the applicable eBay Web site(s), (c) request that all Links placed by Publishers to affected eBay Web sites be promptly removed from such Publishers’ Web sites, third party Web sites, and/or subscription e-mail, and (d) advise Publishers that they may seek further information from eBay at a certain web site address (with such address to be provided by eBay to CJ prior to messaging).

Any termination of this Agreement by the Parties shall not limit any right or remedies available at law or equity to the terminating Party nor impair any rights or discharge any obligations which have accrued to the terminating Party as of the effective date of such termination. No remedy or election hereunder shall be exclusive, but shall, whenever possible, be cumulative with all other remedies available to the Parties at law or in equity.

8.7 Survival. All sections in this Agreement that would naturally survive termination or expiration of this Agreement shall survive, including without limitation [4.7] ("Audit", as set forth therein); [6] (ownership terms in "Proprietary Rights and License"); [7] ("Privacy and Confidentiality"); [8.6] ("Transition Assistance"), [8.7] ("Survival"); [10] ("Limitation of Liability and Disclaimer"), [11] ("Indemnification"); and [12] ("General").

9. Changes to the Network Services. CJ reserves the right to suspend or discontinue any aspect of the Service. CJ will provide eBay with notice at least ninety (90) calendar days prior to any such changes taking effect, during which time and the sixty (60) days following implementation of such change, eBay may terminate this Agreement and/or Service Order(s) immediately without penalty by notifying CJ and taking all reasonable steps to immediately withdraw from the Service. In the event of any such termination, CJ shall follow the steps outlined in Section 8.6.

10. Representations, Warranties, Limitation of Liability and Disclaimer.

10.1 Limitation of Liabilities. WITH THE EXCEPTION OF A BREACH OF SECTION 7 ("PRIVACY & CONFIDENTIALITY"), A CLAIM FOR INDEMNIFICATION UNDER SECTION 11, OR AMOUNTS TO BE PAID (OR REFUNDED) HEREUNDER:

(A) NEITHER PARTY'S LIABILITY WILL EXCEED THE TRANSACTION FEES PAID BY eBay TO CJ UNDER THIS AGREEMENT, AND

(B) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO A CLAIM BY A PUBLISHER OF THE NETWORK SERVICE), FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODWILL, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM.

THIS LIMITATION OF LIABILITY IS CUMULATIVE AND THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.

10.2 Disclaimer of Warranties. EXCEPT AS OTHERWISE STATED HEREIN OR A SERVICE ORDER, TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, ALL PARTIES DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT

franchise, profits, withholding, excise, stamp, business, occupation, customs, duties, or similar fees. If the withholding of any tax is required in respect of any payment by eBay to CJ hereunder, eBay shall [i] withhold the applicable amount from such payment and [ii] pay such amount to the relevant authorities in accordance with any applicable laws in the relevant country or countries. Upon request from CJ, eBay shall provide a copy of the tax receipt documenting payment of the tax to the relevant authorities.

eBay shall notify CJ at least 15 days prior to the payment due date of its intent to withhold taxes from said payment. Upon such notification, CJ agrees to complete and provide to eBay or if required, to the applicable taxing authority, at least 10 days prior to the payment due date, such forms, certifications or other documents as may be reasonably requested by eBay, in order to reduce or exempt withholding taxes with respect to payments made to CJ when and where applicable by law.

If it is later determined that eBay should have withheld and/or paid additional tax but did not withhold and pay such tax, then CJ shall either remit the applicable tax payment to the tax authorities directly, or pay eBay the applicable tax, and hold eBay harmless from any penalties or interest thereon. This Section 4.10 will survive expiration or termination of this Agreement.

5. CJ Services. In consideration of the Transaction Fees, CJ will provide eBay with the services set forth in this Section 5 (the “**Services**”).

5.1 Overview. On a per eBay Web site basis, CJ will track critical information regarding Payouts along with reporting that sets forth the number of ACRUs, CRUs, New Buyers, Qualified Bids, Qualified BINs, and/or such other metrics as eBay may specify as relevant under eBay’s then-current Program from each Publisher that results directly from Links placed by Publisher through the Network Service. CJ will bill eBay for Payouts (subject to “Chargebacks”, as defined in Section 4.8 above), and related Transaction Fees, and make payment to Publisher of such Payouts in accordance with the terms of this Agreement. eBay and Publishers shall be able to produce informational reports (with respect to Publishers, only regarding such Publisher’s activities) through the Network Service concerning Payouts, along with reporting that sets forth the number of ACRUs, CRUs, revenue share commissions, New Buyers and Qualified Bids and Qualified BINs (and/or such other metrics as eBay may specify as relevant under eBay’s then-current Publishers Program), as applicable from each Publisher that determines such Payout and any other leads attributed to the eBay Account.

5.2 Tracking and Reporting. For so long as CJ is providing the tracking for eBay’s Program, eBay shall include and maintain within its Links hereunder CJ’s pixel imaging impression tracking code and action tracking code (collectively, the “**Tracking Codes**”) to facilitate CJ’s tracking of Users’ actions resulting from an eBay’s Publisher to any eBay Web site or Web site content. Unless otherwise instructed by eBay, CJ will track critical

information regarding eBay's Program through the Tracking Codes, and review User actions using a confirmation process that CJ will perform on eBay's behalf. CJ will provide to eBay reports that contain information segmented by Publisher regarding Payouts, ACRUs, CRUs, revenue share commissions, New Buyers, Qualified Bids, Qualified BINs, and/or such other metrics as eBay may reasonably request regarding the results of Links placed by eBay's Publishers through the Network Services. Each eBay Publisher shall be able to produce informational reports through the Network Services concerning Payouts attributable to such Publisher. Notwithstanding anything to the contrary herein, in the event that CJ is unable to track required information or eBay is unable to achieve its reasonable commercial objectives using CJ's tracking infrastructure, CJ will make all reasonable commercial efforts to support additional tracking system(s) (internal and/or external) as may be requested by eBay. During the Term, eBay or CJ may elect to update or deactivate the Tracking Codes to comply with applicable law, or to implement a new monitoring system whereby eBay and/or MediaPlex will track various User actions and report such activity back to CJ using specialized code. CJ will then perform the remaining functions set forth in this Section 5.

5.3 Promotional Services. CJ will provide the following promotional services to eBay regarding eBay's Program (all such promotions to be subject to eBay's prior review and approval):

- 5.3.1 **Network Services Messages and Press Releases.** CJ will promote eBay's Program to Publishers via the Network Services messaging system and the CJ Publisher Newsletter (subject to eBay's approval of the language and/or promotional materials). If requested by eBay, CJ will make a press release announcement regarding eBay's Program, with the content, nature and timing of any such press release(s) to be mutually agreed upon by the Parties;
- 5.3.2 **Publisher Targeting.** Subject to eBay's prior approval, CJ will promote the Program to targeted Publishers (existing or potential) on a monthly basis, both joined and non-joined within and outside the Network Services, using CJ-authored or sponsored performance management and marketing tools. Such tools will include, but not be limited to: (a) placement in Network Services-wide advice campaigns (*e.g.*, monthly What's Hot e-mail campaigns, messages to the publishers' Member Home page, references in CJU educational articles), (b) CJ Marketing promotions (*e.g.*, eBay Brochure, CJ.com Home Page – Case Study and Featured Client placement), and (c) speaking opportunities at CJ sponsored events. CJ may also seek to promote eBay using cross promotions with other Network Services advertisers. In addition, CJ shall include eBay in as many categories of the "Meet the Advertiser" section of the CJ Web Site as may be requested by eBay at no additional charge to eBay. All promotional efforts in this Agreement are subject to eBay's prior review and approval on a case-by-case basis.
- 5.3.3 **Publisher Recruiting.** The parties will determine each quarter during the Term the desired Publisher recruitment efforts they will strive to achieve

5.4 Tax Forms.

- 5.4.1 **United States.** CJ will process and mail U.S. tax forms to Publishers (Form 1099 or similar) in accordance with federal mailing deadlines
- 5.4.2 **International.** CJ will process, prepare and mail all international tax forms to Publishers required under international law in accordance with such laws' stated deadlines.

5.5 Support.

- 5.5.1 **United States.** For eBay's U.S. and Half.com Web sites, CJ will provide eBay and Publishers with access to CJ's client services via the automated members area interface, and the CJ help desk and will provide eBay with additional after-hours support (via cell phone access to eBay's Program Manager and Account Manager) until 10pm PST Monday-Friday.
- 5.5.2 **International.** For all other eBay Web sites, CJ will provide eBay and Publishers with access to CJ's local client services via the member interface and local help desk, Monday-Friday from 9 am to 5 pm local time, and will provide eBay with additional after-hours support (via cell phone access to eBay's designated CJ representative for the applicable eBay Web site) until 8pm in the applicable eBay's Web Site's time zone, Monday-Friday.

- 5.6 **Ad Serving.** CJ will serve eBay's Ad Content for all Links unless otherwise requested by eBay;

5.7 Dedicated CJ Resources for eBay

- 5.7.1 **For eBay U.S. and Half.com Web Site.** During the Term, CJ will consistently dedicate a reasonable and mutually agreeable level of CJ personnel (e.g., account manager(s), program manager(s), and product development resources) to adequately support the Program on the eBay US Web site and Half.com Web site.
- 5.7.2 **Other eBay Sites.** Any other CJ resource dedication for a particular eBay web site (i.e. eBay.co.uk, eBay.co.au, eBay.co.fr, or new countries), that currently exists or is new, will be set forth in the applicable Service Order.
- 5.7.3 **New eBay Marketplaces.** New eBay web sites, affiliates, subsidiaries or internal divisions (i.e. Paypal, Kijiji, Shopping.com, Prostores) shall not be supported through the CJ dedicated personnel already assigned to support existing eBay Web sites. New eBay marketplaces will be supported by a reasonable and mutually agreeable level of CJ personnel.
- 5.8 **CJ Vantage Services.** CJ will provide to eBay the following CJ Vantage services for all eBay Web sites at no additional cost to eBay:

- 5.8.1 **Multiple Actions.** eBay may offer more than one action to Publishers (*e.g.*, a sale and a Lead, more than one sale, etc.) in real-time.
- 5.8.2 **Item-Based Commission Functionality.** eBay will be able to compensate Publishers on an item-based level;
- 5.8.3 **Product Catalog.** eBay may use the Product Catalog functionality. This functionality accommodates numerous predefined and custom link formats and enables eBay to distribute product-specific data to Publishers and support keyword searches by eBay and Publishers;
- 5.8.4 **Scheduled Reporting.** eBay will have access to a diversity of one time and regular reports. Various data formats are supported;
- 5.8.5 **Diversity of Tracking Technology.** Receipt of integration alternatives upon request such as modified pixel tracking technology, data transfer tracking for interim processing directly by eBay (*i.e.*, co-tracking), and rapid integration with standard pixel tracking technology.
- 5.8.6 **Special Ts&Cs** – eBay may offer supplemental terms and conditions through the Network Services to Publishers via a pop-up agreement (“**Special Ts&Cs**”) that eBay Publishers must “click-through” to join eBay’s Program. The Special Ts &Cs may vary by eBay Web site in eBay’s sole discretion. eBay will disclose any Special Ts&Cs (and any revisions thereof) to CJ. CJ will host and keep available for network Publishers’ consultation at any time the Special Ts&Cs and assist eBay with set-up, maintenance and recordation of Publisher “click-throughs” of such Special Ts&Cs. Upon eBay’s request, CJ will update the Special Ts &Cs for eBay Web sites. eBay must provide CJ with any revisions to the Special Ts&Cs. CJ will inform eBay’s Publishers in writing of (i) the revisions to the Special Ts&Cs, and that (ii) such revised Special Ts&Cs will become effective on the eighth (8) day following such written notice to all Publishers who do not terminate their participation in the Program during such seven (7) days notice period.
- 5.8.7 **Enhanced Program Listings.** CJ will support bold font, logo listing and additional category listing for eBay’s Program.
- 5.8.8 **Advanced Technical Support.** Unless otherwise stated herein or in a Service Order, all eBay Web sites will receive as needed technical support from CJ, coordinated through the applicable CJ Program Manager for the eBay Web site in question.
- 5.8.9 **Member messaging.** eBay may use the CJ email communication tool that allows eBay to communicate with Publishers.
- 5.8.10 **Network Quality.**
 - (a) Standard Monitoring. At a minimum and without limiting any other provision of this Agreement or any Service Order, CJ will

use its best efforts to detect and monitor the following for every eBay Web site in the Program (including without limitation the activity of Sub-Publishers with respect to such sites), except those Programs in hidden mode: forced clicks, hijacked cookies, undisclosed or non-legitimate incentive sites, self-inflated leads, and non-compliance software. CJ will monitor and identify compliance violations and institute an appropriate escalation tree toward termination from the respective eBay Web site's Program (for non-compliant behavior) or deactivate Publishers and/or Sub-Publishers (for expressly fraudulent behavior). CJ will defer to eBay where non-compliant or fraudulent behavior is identified only by backend eBay data to which CJ has access. In the event that remediation is required or suggested, the compliance specialist will provide the eBay employee Affiliates program manager with the information necessary to make an informed decision about the relationship. As used herein, "hidden mode" means that the applicable Program is only available to certain Publishers who are either named by eBay or who meet certain eBay-specified criteria.

- (b) Enhanced Monitoring. In addition to the monitoring listed in 5.8.10(a), CJ will use its best efforts to provide network quality monitoring for eBay's Program on the Large eBay Marketplaces (defined below), such efforts to include: monitoring for compliance with eBay's Special Ts & Cs, fraud detection, monitoring for eBay brand protection, detection of CJ links on eBay seller pages (as reported by eBay), and other mutually agreed upon capabilities. Additional network quality monitoring activities may be documented in Service Orders for particular eBay Web sites. As used herein, "Large eBay Marketplaces" mean the eBay US Web site, Half Web site, eBay France Web site, eBay UK Web site, eBay China Web site, eBay Canada Web site, and any other eBay Web site where Transaction Fees to CJ from such site's Program exceed \$50,000 USD per month.

- 5.9 **Additional Services.** eBay may reasonably request that CJ perform additional services related to the Program that are not otherwise set forth in this Section 5 and CJ will undertake reasonable efforts to accommodate such requests. The Parties shall mutually agree on the nature and/or cost of such additional services when eBay requests such additional services.

6. Proprietary Rights and License.

- 6.1 **License.** Subject to the terms and conditions of this Agreement, eBay hereby grants to CJ a revocable, non-transferable, non-assignable, non-exclusive, sublicensable (solely to Publishers as set forth herein), royalty-free, fully-paid up, worldwide right and license to use, reproduce, display (publicly or otherwise) and distribute from CJ's Web site: (a) eBay's Link(s), (b) Ad Content provided by eBay to CJ for the Program, and (c) all eBay Content that

eBay provides to CJ in connection with the Program for the limited purposes set forth in this Agreement. CJ may only sublicense such Link(s), Ad Content and Content, if permitted under eBay's Program, for the limited purposes of and subject to the terms and conditions of this Agreement and the Publisher Service Agreement. Each such sublicense is a revocable, non-transferable, non-assignable, non-exclusive, non-sublicensable (except to Sub-Publishers approved by eBay), royalty-free, fully paid-up, worldwide right and license solely to use eBay's approved Link and no other link to an eBay Web site. Unless otherwise expressly agreed between eBay and CJ and/or eBay and the Publishers, in no event shall CJ or any Publisher use any other link or Content to link to an eBay Web site. [However, the foregoing shall not exclude use of the Promoting Content by Publishers (e.g link on AdWords).] Unless otherwise expressly agreed by eBay, CJ and the sub-licensees shall not otherwise copy nor modify, in any way, any icons, buttons, banners, graphics files, names, Ad Content or Content that eBay has made available through the Network Services pursuant to the foregoing license. CJ and the sub-licensees may not remove or alter any copyright or trademark notices included as part of any Link. CJ undertakes to take any appropriate steps so that eBay's Publishers shall be bound by all provisions of this Agreement concerning the sub-license granted by CJ over eBay's Links, Ad Content provided to CJ for the Program, and eBay Content provided to CJ by eBay in connection with the Program. If eBay grants a Publisher permission to sublicense eBay's Links, Ad Content or eBay Content, such sublicense is sublicensable on the preceding conditions. eBay agrees that eBay's use of any CJ logos, trademarks or Links is subject to the license terms that are disclosed on the CJ Web site. The eBay logo and trademarks shall only be used pursuant to the terms of this Section 6.1 supplemented by the provisions set forth in Exhibit A to this Master Agreement.

6.2 No Challenge to Intellectual Property. Both parties acknowledge that they do not obtain any proprietary or Intellectual Property Rights in each others Content, and agree not to challenge each others proprietary rights or Intellectual Property Rights therein. The licensees/sub-licensees hereunder agree that all goodwill arising as a result of the licensor's Intellectual Property Rights shall inure to the benefit of the licensor, and that all non-licensed and/or sublicensed Intellectual Property Rights of licensor shall remain with the licensor. Licensees/sub-licensees shall not adopt any signs, tradenames, corporate names, shop signs, names, trademarks, service marks or domain names that are confusingly similar to, or in combination with any of licensor's signs, corporate names, tradenames, shop signs, trademarks, service marks and/or domain names.

6.3 Except as provided in this Agreement and solely as necessary for the Parties to carry out their respective obligations hereunder, all use of either CJ's or eBay's Content and Program materials by the other Party will be subject to such other Party's prior written approval.

7. Privacy and Confidentiality.

- 7.1 **Confidential Information.** eBay or CJ may provide the other Party with information that is designated or marked in writing as, or is provided under circumstances indicating that it is, confidential and proprietary to that Party or a third party (“**Confidential Information**”). The receiving Party agrees to secure, protect and maintain the confidentiality of the Confidential Information of the disclosing Party using at least as great a degree of care as it uses to maintain the confidentiality of its own information of a similar nature or importance, but in no event less than reasonable care. “Confidential Information” shall not include information that (a) is or becomes part of the public domain through no act or omission of the receiving Party, (b) is lawfully received by the receiving Party from a third party without (i) restriction on use or disclosure and without breach of this Agreement or (ii) without knowledge by the receiving Party of any breach of fiduciary duty by such third party, or (c) the receiving Party independently knows at the time of receiving such information, as evidenced by its written records.

The information that eBay supplies to establish and maintain eBay’s Account(s) shall be eBay’s Confidential Information, excluding any contact information that eBay supplies to CJ solely for eBay Publishers to contact eBay with customer service questions. eBay shall own all data supplied by Publishers related to the Program, or derived from Publishers’ participation in the Program, which data shall be deemed eBay’s Confidential Information. eBay shall be responsible for its usage of and activity on eBay’s Account and for loss, theft or unauthorized disclosure of eBay’s password (other than through CJ’s negligent or willful conduct or omission). eBay shall provide CJ with prompt written notification to CJ, at facsimile number 805-730-8003 and by contacting CJ client services through the “Ask A Question” feature in the Network Service, of any known or suspected unauthorized use of eBay’s Account or breach of the security of eBay’s Account.

It is anticipated that CJ will track various Publisher activity for the benefit of eBay, such tracking to be done using codes, including without limitation the Tracking Codes and, potentially, via a later generation tracking/reporting system described in Section 5.2. Without limiting any other provision of this Agreement, CJ hereby represents and warrants that it will not (and shall not permit any other person or entity to) (i) use, adapt, decode, display, extract, reverse assemble, reverse compile, reverse engineer, translate, decompile, or disassemble the codes or any data or reporting related thereto; (ii) attempt to map any such codes back to determine keyword or query specific data, or (iii) attempt to utilize, leverage, repurpose, or disclose any data regarding eBay’s Program(s) with, or for the benefit of, any other party.

- 7.2 **Collection and Use of Transaction Data.** Other than: (a) the information CJ receives through the Tracking Codes, and (b) any information that is disclosed directly to CJ by eBay and/or eBay’s Publishers (*e.g.*, via a data feed), CJ does not and will not collect or otherwise receive any additional proprietary or confidential information about Publishers or eBay’s Users’ transactions. All information related to Program Publishers, including without limitation the information referenced in sub-sections (a) and (b) in the immediately preceding

sentence is collectively referred to herein as the “eBay Data”. CJ shall treat all eBay Data as eBay Confidential Information. Subject to the terms set forth herein, CJ may internally use eBay Data, which may include information about eBay, solely to analyze Network Services trends, monitor Network Services efficiencies, maintain the integrity of the Tracking Codes and analyze eBay’s tracking statistics. Subject to eBay’s prior written approval on a case-by-case basis, CJ may use aggregated eBay Data to promote the Network Services and eBay’s Program capabilities and efficiencies to Publishers. Except as expressly provided for in Section 7.3 below, CJ will not disclose (including without limitation on its Web site), sell, rent, lease or otherwise share with any third party, any eBay Data or eBay’s Confidential Information, unless CJ is under compulsion of law, including, but not limited to, subpoena. Notwithstanding the foregoing, CJ may disclose non-personally identifiable data regarding aggregate Users’ transactions to the Publisher that referred the Users to eBay for the performance of this Agreement, however none of such data will be keyword or query specific. As part of the Network Service, at eBay’s request, CJ will provide eBay all data derived from Publishers’ participation in the Program at no additional charge.

7.3 Collection and Confidentiality of Users’ Personal Data. Without limiting the foregoing, CJ shall not disclose to any third party, other than under compulsion of law, including subpoena, eBay Data or any other personal or business information that can be linked specifically to any Users of eBay’s Web site that result directly from Links on Publisher’ Web sites and subscription e-mails, without the User’s express opt-in permission (which may be through membership to a Publisher’s subscription e-mail or Web site program). In no event shall CJ solicit, market to, or facilitate the solicitation by any third party of any User without their express permission, and in no event shall CJ solicit or market to any User or any other of eBay’s Web site members by referring to them in such communication as “eBay members,” eBay users,” or other similar designation without eBay’s prior written consent. eBay shall use its best efforts to not send CJ personally identifiable information of visitors in the transaction data. The parties acknowledge that future tracking will likely include eBay passing cookie data and transaction level detail related to “unpaid items” and Chargebacks to CJ and the parties agree that such data is not personally-identifiable information for purposes of this section.

7.4 International Data Protection Laws. Without limiting any other provision of this Agreement, CJ hereby represents and warrants that it will comply with all data and privacy protection laws, rules, regulations, ordinances, and other directives in any country for which it provides Network Services to an eBay Web site. The parties may elect to specifically name any such requirement in the applicable Service Order for the relevant eBay Web site.

8. Term and Notices.

8.1 Term Unless earlier terminated in accordance with this Section 8, the term of this Agreement shall begin on the Effective Date and continue until December 31, 2008 (the “Term”). All Service Orders, regardless of the date of execution, will run co-terminously with this Agreement unless otherwise stated therein,

such that they will all have an expiration date of December 31, 2008, subject to the parties early termination rights as set forth herein or on such Service Orders. To clarify, individual Service Orders may have earlier termination dates and any termination rights that may be set forth in such Service Orders shall be supplementary to those contained in this Agreement.

8.2 Termination.

8.2.1 **Breach.** The Agreement and/or Service Order(s) will be terminable by either Party upon written notice prior to the scheduled expiration of the Term if a Party materially breaches this Agreement or the applicable Service Order and, if the breach is curable, does not cure such breach within thirty (30) days following receipt of written notice thereof from the non-breaching Party. Notwithstanding any other provision of this Agreement, termination of or activity under one Service Order will have no bearing on any other Service Order.

8.2.2 **Breach of Confidentiality or License Rights.** Without limiting any other rights or remedies a party may have at law or under this Agreement, either party may temporarily deactivate, or terminate any Program or Service Order immediately upon notice, if the other party is in material breach of Sections 6 and/or 7 above. Such actions will only be taken with respect to the eBay Web site upon which such misdeed occurred. CJ will continue to operate the Program for all other eBay Web sties without change or penalty.

8.2.3 **By eBay For Convenience.** Anytime during the months of January 2007 and January 2008, eBay will have the option to terminate this Agreement and/or any Service Order(s) for convenience by providing ninety (90) days prior written notice to CJ. In other words, if for example, eBay provides written notice of its intention to terminate the Agreement for convenience on January 11, 2007, such termination will become effective as of April 11, 2007. If no termination for convenience notice is received in January 2007, the next opportunity for eBay to terminate for convenience will be January 2008. This right is in addition to any other at will termination rights in the Service Orders. CJ may not terminate this Agreement or any Service Order for convenience.

8.3 **Effect of Deactivation.** Upon deactivation of eBay or eBay's Account (pursuant to Section 4.6.2 above or otherwise in accordance with this Agreement) for a particular eBay Web site, CJ shall: (a) inform eBay's Publishers for the relevant eBay Web site(s), via a mutually agreed upon message, that eBay's Program has been temporarily discontinued, (b) stop distributing Links to the applicable eBay's Web site, and (c) suggest that all Links placed by eBay's Publishers for such eBay Web site be removed from such Publisher's Web sites and/or subscription e-mails and any other Web site.

8.4 **Change of Control.** By providing written notice, either Party may elect to terminate this Agreement and/or any Service Order within ninety (90) days of a Change of Control of the other Party, by providing written notice of such

termination during such period, which termination shall be effective thirty (30) days following the notice. “**Change of Control**” means any Ownership Change Event or a series of related Ownership Change Events (collectively, the “**Transaction**”) wherein a Party’s shareholders immediately preceding the Transaction do not (a) retain ownership immediately after the Transaction in substantially the same proportions as their ownership of shares of such Party’s voting stock or other voting interests immediately before the Transaction, or (b) direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the corporation or corporations to which substantially all of such Party’s assets or stock were transferred, as the case may be. An “**Ownership Change Event**” occurs if any of the following occur: (i) the direct or indirect sale or exchange in a single series of related transactions by a Party’s shareholders or other ownership interest holders of more than fifty percent (50%) of its voting stock or other voting interests; (ii) a merger or consolidation in which such Party is a party; (iii) the sale, exchange or transfer of all or substantially all of such Party’s assets; or (iv) a liquidation or dissolution of such Party. Notwithstanding the foregoing, an Ownership Change Event does not occur as a result of any transaction or series of transactions that are effected solely in connection with a (x) re-incorporation, or (y) a reorganization, re-capitalization or similar financing not in connection with the sale of all or substantially all of such Party’s assets or stock or other ownership interests.

8.5 Effect of Termination. Upon expiration or termination of this Agreement and/or any Service Order, CJ will: (i) generate the applicable final invoices for Payouts, Transactions Fees and Requested Project Fees, and eBay shall pay such final invoices in accordance with the process set forth in Section 4 above; and (ii) if applicable, pay eBay any outstanding, undisputed credit balance within thirty (30) days of termination of this Agreement. Upon expiration or termination of this Agreement or any Service Order, all licenses or sublicenses granted under this Agreement for the eBay Web site(s) listed in such Service Order(s), and if applicable, this Agreement, will terminate, and the relevant licensee/sub-licensee must immediately destroy or delete all physical and electronic copies of Intellectual Property Rights and the Confidential Information in a recipient’s possession or under a recipient’s control, and cause all Links to CJ or eBay to be removed. Without limiting the foregoing, upon expiration or termination of this Agreement and/or any Service Order, CJ will immediately destroy all Tracking Code data and material related to Program performance and certify such destruction in writing to eBay.

8.6 Transition Assistance. Upon expiration or termination of this Agreement or Service Order(s), CJ shall (a) inform the affected Publishers (via an eBay-approved message) that eBay’s Program for the applicable eBay Web Site(s) has ended, (b) stop distributing Links to the applicable eBay Web site(s), (c) request that all Links placed by Publishers to affected eBay Web sites be promptly removed from such Publishers’ Web sites, third party Web sites, and/or subscription e-mail, and (d) advise Publishers that they may seek further information from eBay at a certain web site address (with such address to be provided by eBay to CJ prior to messaging).

Any termination of this Agreement by the Parties shall not limit any right or remedies available at law or equity to the terminating Party nor impair any rights or discharge any obligations which have accrued to the terminating Party as of the effective date of such termination. No remedy or election hereunder shall be exclusive, but shall, whenever possible, be cumulative with all other remedies available to the Parties at law or in equity.

8.7 Survival. All sections in this Agreement that would naturally survive termination or expiration of this Agreement shall survive, including without limitation [4.7] ("Audit", as set forth therein); [6] (ownership terms in "Proprietary Rights and License"); [7] ("Privacy and Confidentiality"); [8.6] ("Transition Assistance"), [8.7] ("Survival"); [10] ("Limitation of Liability and Disclaimer"), [11] ("Indemnification"); and [12] ("General").

9. Changes to the Network Services. CJ reserves the right to suspend or discontinue any aspect of the Service. CJ will provide eBay with notice at least ninety (90) calendar days prior to any such changes taking effect, during which time and the sixty (60) days following implementation of such change, eBay may terminate this Agreement and/or Service Order(s) immediately without penalty by notifying CJ and taking all reasonable steps to immediately withdraw from the Service. In the event of any such termination, CJ shall follow the steps outlined in Section 8.6.

10. Representations, Warranties, Limitation of Liability and Disclaimer.

10.1 Limitation of Liabilities. WITH THE EXCEPTION OF A BREACH OF SECTION 7 ("PRIVACY & CONFIDENTIALITY"), A CLAIM FOR INDEMNIFICATION UNDER SECTION 11, OR AMOUNTS TO BE PAID (OR REFUNDED) HEREUNDER:

(A) NEITHER PARTY'S LIABILITY WILL EXCEED THE TRANSACTION FEES PAID BY eBAY TO CJ UNDER THIS AGREEMENT, AND

(B) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO A CLAIM BY A PUBLISHER OF THE NETWORK SERVICE), FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODWILL, LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM.

THIS LIMITATION OF LIABILITY IS CUMULATIVE AND THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.

10.2 Disclaimer of Warranties. EXCEPT AS OTHERWISE STATED HEREIN OR A SERVICE ORDER, TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, ALL PARTIES DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT

LIMITED TO, (A) MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (B) THAT THERE ARE NO VIRUSES OR OTHER HARMFUL COMPONENTS, OR (C) ADEQUACY OR SUFFICIENCY OF A PARTY'S SECURITY METHODS EMPLOYED IN CONNECTION WITH ITS OBLIGATIONS UNDER THIS AGREEMENT (PROVIDED, HOWEVER, THAT THIS DISCLAIMER SHALL NOT AFFECT OR DIMINSH EITHER PARTY'S OBLIGATIONS UNDER SECTION 7 ABOVE).

- 10.3 Certain Guarantees.** Each party (and its ultimate parent company acknowledging this Agreement on the signature page) will take all actions necessary to ensure that its corporate affiliates comply with the terms of this Agreement to the extent reasonably necessary to effectuate the intent of the parties as set forth herein. In addition, to the extent that CJ is unwilling or unable to perform any of its financial or indemnity obligations under this Agreement, ValueClick, Inc. will assume and fully perform such obligations.
- 10.4 Authority.** ValueClick, Inc. represents and warrants that it has the authority to sign this Agreement on behalf of all of its applicable companies or subsidiaries, including without limitation any international subsidiaries indicated as the applicable provider of Network Services for CJ on a Service Order, and to bind them to these terms. Without limiting the foregoing, both parties represent and warrant that they have full power and authority to enter into this Agreement and to perform all of their obligations hereunder;
- 10.5 Compliance with Laws.** Each party represents and warrants that it shall comply with applicable local laws with respect to the performance of its obligations under this Agreement.
- 10.6 Benefit of the Bargain.** THE PROVISIONS OF THIS SECTION 10 ARE AN ESSENTIAL ELEMENT OF THE BENEFIT OF THE BARGAIN REFLECTED IN THIS AGREEMENT.
- 11. Indemnification.** Each Party ("**Indemnitor**") agrees to defend, indemnify and hold the other Party and such Party's shareholders, subsidiaries, joint ventures, employees, directors, officers and agents (each an "**Indemnitee**") harmless against all claims, suits, costs, damages and judgments incurred, claimed or sustained by the Indemnitee (including reasonable attorneys' fees and costs) (collectively, "**Claims**") as a result of any third party actions arising from or relating to any: (i) breach by the Indemnitor of a representation or warranty made under this Agreement; (ii) infringement by the Indemnitor's Links or Content (the Ad Content or CJ Content, as applicable) supplied to the Indemnitee, of any third party Intellectual Property Right, or if such Links or Content libel, defame, or invade the rights of publicity or privacy of any third party, provided such Link or Content has not been modified by the Indemnitee and/or Publishers and/or any third party and (iii) violation of this Agreement or the Special Ts & Cs by the Indemnitor with respect to termination of any Publisher or Sub-Publisher, Chargebacks and/or changes in Payouts. In addition, CJ will indemnify eBay against any third party claims arising from or related to the Network Service, or any additional service performed by CJ pursuant to this Agreement or any Service Order(s) or SOW, except to the extent such Claims arise from eBay's gross negligence or willful misconduct.

The foregoing indemnification obligations are subject to the Indemnitee: (i) providing the Indemnitor with prompt written notice upon becoming aware of any such claim; (ii) reasonably co-operating with the Indemnitor in the defense of such claim; and (iii) providing the Indemnitor with the sole and exclusive control of the defense and settlement of any such claim except that the Indemnitor will not enter into any settlement that affects the Indemnitee's rights or interest without the Indemnitee's prior written approval. The Indemnitee will have the right to participate in the defense at its own expense.

The foregoing indemnity shall not apply to claims arising out of any modifications made to the Indemnitor's Links, Content or trademarks provided to the Indemnitee by the Indemnitee, or additional materials supplied by the Indemnitee, nor for any use of the Links or trademarks not expressly authorized by this Agreement.

12. General.

12.1 Governing Law; Venue. This Agreement will be construed in accordance with and governed exclusively by the internal laws of the State of California, excluding its conflicts of laws provisions. Any legal suit, action or proceeding arising out of or relating to this Agreement will be commenced in a state or federal court in California, and each Party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. The Parties further agree that service of process in connection with any such action, suit or proceeding may be effected by any means permitted under California law.

12.2 Publicity and Press Release. Without limiting the provisions of Section 7 ("Privacy and Confidentiality"), neither Party will make any public statement or press release regarding the terms of this Agreement or any aspect thereof without the prior written approval of the other Party, provided that to the extent such disclosure is required by law, rule, regulation, or governmental or court order, the Party requesting disclosure will furnish the other Party with sufficient notice to address such request with any such governmental agency and seek confidential treatment or a protective order.

12.3 Independent Contractors. This Agreement does not create, and nothing contained in this Agreement will be deemed to establish, a joint venture between the Parties, or the relationship of employer-employee, partners, principal-agent or the like; and the Parties shall at all times be and remain independent contractors. Except as expressly agreed by the Parties in writing, neither Party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other Party or to bind the other Party in any respect whatsoever.

12.4 Assignment. Neither Party may assign its rights nor delegate its duties hereunder without the other Party's prior written consent and any purported attempt to do so will be null and void. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

- 12.5 Severability; Headings.** If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.
- 12.6 Force Majeure.** Except for obligations to make payment and to maintain the confidentiality of Confidential Information hereunder, if performance of an obligation hereunder is interfered with by any condition beyond a Party's control, such as an act of God, acts of war or terrorism, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute or governmental act, the affected Party will be excused from such performance to the extent of such condition and shall not be liable for such excused performance.
- 12.7 Non Solicitation.** During the term of this Agreement and for a period of six months after termination of this Agreement, each party shall refrain from soliciting the other party's employees, except that nothing herein shall preclude a party from soliciting an individual employed by the other party if he or she: (a) responds to advertising in a publication or on the Internet for employment with such party; (b) first contacts such party or its affiliates or subsidiaries on his or her own initiative without any direct or indirect solicitation or encouragement by such party or its affiliates or subsidiaries (it being understood that advertising in publications or on the Internet shall not constitute solicitation or encouragement for purposes of this provision), or (c) is terminated by the other party after the date hereof. Subject to the foregoing, in addition to a party's rights and remedies under this Agreement or at law, each party agrees that monetary damages for a breach of or a threatened breach of this Section may not be adequate and that a party may be entitled to injunctive relief (including temporary and preliminary relief), in addition to damages.
- 12.8 Notice.** Any notice under this Agreement will be in writing and delivered by personal delivery, overnight courier, confirmed facsimile, if sent by facsimile, or certified or registered mail, return receipt requested, and will be deemed given upon personal delivery, one (1) day after deposit with an overnight courier, five (5) days after deposit in the mail, or upon confirmation of receipt of facsimile. Notices will be sent to a Party at its address set in this Section or such other address as that Party may specify in writing pursuant to this Section ("Notice"). Notices to the Parties shall be addressed to General Counsel and addressed as follows: (a) if to CJ to: Commission Junction, Inc., 530 E. Montecito Street, Santa Barbara, CA 93103, facsimile (805) 730-8003 with a copy to ValueClick Legal, 30699 Russell Ranch Road, Suite 250, Westlake Village, CA 91361; (b) if to eBay to: eBay Inc., 2145 Hamilton Ave., San Jose, CA 95125, facsimile (408) 376-7514. Notices sent to eBay regarding a Service Order shall be sent to the eBay contact person named in such Service Order, with a copy also to be sent to eBay Inc. as noted in this Section 12.8.

12.9 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one instrument. Executed signatures shall be as effective as originals.

12.10 **Entire Agreement; Waiver.** This Agreement, including all documents attached hereto, sets forth the entire understanding and agreement of the Parties, and supersedes any and all prior or contemporaneous oral or written agreements or understandings between the Parties relating to the subject matter hereof, including, without limitation, the Original Agreement and any discussions regarding term length and business operation expansion. Except for Exhibit A and the Special Ts&Cs which can be amended by eBay in its sole discretion, the provisions of this Agreement and the Service Orders, may be changed or waived only by a writing signed by both Parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach and will not act to amend or negate the rights of the waiving Party. In the event of a conflict between this Agreement and any Exhibits attached hereto, the terms in this Agreement shall control.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

COMMISSION JUNCTION, INC.

By: _____

Name: _____

Title: T. Valenzuela
SVP - CJ

Address:

530 E. Montecito Street
Santa Barbara, CA 93103

EBAY INC. ("EBAY")

By: _____

Name: Henry Vogel

Title: Vice President - Jay Clemens
Deputy General Counsel

Address:

2145 Hamilton Avenue
San Jose, CA 95125



VALUECLICK, INC.

By: _____

Name: _____

Title: _____

VALUECLICK EUROPE LIMITED

By: _____

Name: Carl White

Title: Chief Operating Officer

EBAY INTERNATIONAL AG:

By: _____

Name: _____

Ennio Rapazzini

FP & A Manager Europe

eBay International AG

Geoffrey Brigham
Vice President, Legal Europe

eBay International AG

Dec. 23, 05

pm

12.9 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one instrument. Faxed signatures shall be as effective as originals.

12.10 **Entire Agreement; Waiver.** This Agreement, including all documents attached hereto, sets forth the entire understanding and agreement of the Parties, and supersedes any and all prior or contemporaneous oral or written agreements or understandings between the Parties relating to the subject matter hereof, including, without limitation, the Original Agreement and any discussions regarding term length and business operation expansion. Except for Exhibit A and the Special Ts&Cs which can be amended by eBay in its sole discretion, the provisions of this Agreement and the Service Orders, may be changed or waived only by a writing signed by both Parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach and will not act to amend or negate the rights of the waiving Party. In the event of a conflict between this Agreement and any Exhibits attached hereto, the terms in this Agreement shall control.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

COMMISSION JUNCTION, INC.

EBAY INC. ("EBAY")

By: _____

By: _____

Name: _____

Name: Henry Vogel

Title: _____

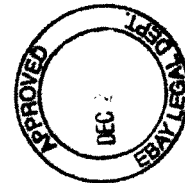
Title: Vice President

Address:

Address:

530 E. Montecito Street
Santa Barbara, CA 93103

2145 Hamilton Avenue
San Jose, CA 95125



VALUECLICK, INC.

VALUECLICK EUROPE LIMITED

By: _____

By: _____

Name: James R. Zarky

Name: Carl White

Title: CEO

Title: Chief Operating Officer

EBAY INTERNATIONAL AG:

By: _____

Name: Emilio Rapazzini
FP & A Manager Europe

Geoffrey Brignam
Vice President, Legal Europe
eBay International AG

eBay International AG

Dec. 23, 05

fm

Exhibit A

EBAY TRADEMARK POLICY

(This document may be updated at anytime by eBay in its sole discretion.)

This Trademark Policy of eBay Inc. ("eBay") is provided to you as a licensee of the eBay Logo trademark ("eBay Logo") owned by eBay. This Policy is designed to provide you with the requirements for use of the eBay Logo. In order to be entitled to use this or any other eBay trademark, you must have a written agreement with eBay, which includes a trademark license. You are entitled to use only the trademark expressly licensed to you in the written agreement and only on the products described in your agreement. The requirements set forth in this Policy are in addition to all other terms and conditions of your written agreement with eBay.

The eBay Logo

The eBay Logo consists of the name eBay represented in the colors and style reflected on the attached Schedule 1. eBay will provide you with the artwork for the eBay Logo and in reproducing the eBay Logo you may only use the artwork provided by eBay or its designee. You may not alter the eBay Logo as provided to you in any manner, including proportions, colors, elements, type or in any other respects. You may not animate, morph or otherwise distort its perspective or dimensional appearance.

Trademark Notices

The artwork provided to you contains the ™ symbol and that symbol should never be deleted from the artwork. All uses of the eBay Logo must include the following statement in a reasonably visible location: eBay and the eBay logo are trademarks of eBay Inc.

No Use of Identical or Similar Names; No Combination Marks

You may not use any name or trademark confusingly similar to the eBay Logo or any eBay trademark. You may not use the eBay Logo in such proximity to any of your own trademarks or third party trademarks so as to create a combination or composite mark.

Ownership Rights & Cooperation

You agree that nothing herein or in your written agreement with eBay shall give to you any right, title or interest in the eBay Logo, or any other trademark of eBay, except the right to use the eBay Logo solely in accordance with the terms of your written agreement with eBay. You also agree that the eBay Logo is the sole property of eBay, and that any and all uses by you of the eBay Logo, and all goodwill derived therefrom, whether or not conducted pursuant to the written agreement, shall inure solely to the benefit of eBay. At eBay's request and expense, you shall provide eBay with any specimens and execute all documents necessary to protect and confirm eBay's rights to the eBay Logo including without limitation any act reasonably necessary for eBay to secure or maintain rights in and to the eBay Logo.

No Registration of Mark or Objections to Validity

You may not (a) do anything that might harm the reputation or goodwill of eBay, the eBay name or the eBay Logo; (b) take any action inconsistent with eBay's ownership of the eBay name or the eBay Logo; (c) challenge, raise or cause to be raised any questions concerning eBay's rights or interests in the eBay name or the eBay Logo; or (d) attempt to register the eBay Logo or any other eBay trademark or any trademark or logo substantially similar thereto; and you may take no other action which is harmful or adverse to eBay's rights.

AM

Notification of Adverse Use

You must promptly notify eBay in writing of any adverse use by a third party of the eBay Logo or of a mark or name confusingly similar to the eBay Logo and will to take no action of any kind with respect thereto except with the prior written authorization of eBay. You will provide full cooperation with any legal or equitable action by eBay to protect its right, title and interest in and to the eBay Logo.

Infringement Proceedings

In the event of infringement of the eBay Logo by a third party, eBay shall have the sole right in its discretion to initiate and conduct proceedings (including notifications to customs or other government officials objecting to the importation of infringing goods) against the infringing party, to initiate and conduct negotiations with respect thereto, including, but not limited to settlement discussions and to retain any damages recovered in such proceedings.

Quality Control & Review Process

(1) Product and Services Quality. You may use and apply the eBay Logo only to the products and other materials permitted by your agreement and only so long as the quality of those products and other materials meets eBay's high standard of quality consistent with the level of quality reflected in eBay's own services and products. Without limiting the foregoing and by way of example only:

- The eBay Logo may not be used on or in connection with any material that is pornographic, morally offensive or otherwise objectionable in light of eBay's reputation for providing a safe online environment for trading;
- The eBay Logo may not be used on or in connection with any material that libels or defames eBay or any of its partners or customers;
- The eBay Logo may not be used on or in connection with any material that violates any state, federal or foreign law or regulation.

(2) Prior Submission of Samples. You must submit samples of any and all materials bearing the eBay Logo to eBay for review and approval prior to the distribution of such materials. eBay shall have the right to make reasonable objections to any such sample within ten (10) business days of its receipt thereof on the grounds that eBay believes in good faith that the use and/or distribution of such materials by you will be damaging to the recognition value or reputation for quality associated with the eBay Logo, or the materials do not meet the requirements of this Policy or your written agreement with eBay. In the event of such an objection, you shall modify the materials in accordance with the objection of eBay prior to the distribution of the materials. Once Company has received approval for any said materials, it shall be allowed to use the same in subsequent editions without obtaining prior approval.

Termination

Should eBay notify you that any of your uses of the eBay Logo does not meet the requirements set forth in this Policy or your written agreement with eBay, you must correct all misuses of the eBay Logo within forty-five (45) days of notice from eBay. Attempts at a cure or partial cures shall not serve to stay the running of the forty-five (45) day cure period unless such stay is first agreed to in writing by eBay. If the misuse of the eBay Logo is not corrected within forty-five (45) days, your license to use the eBay Mark shall terminate at the end of that forty-five day period. In the event of termination of this Agreement for any reason, you agree to discontinue immediately all use of the eBay Logo and to promptly destroy or return to the place designated by eBay all materials that bear the eBay Logo.

Other Terms and Conditions

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eBay disclaims any and all warranties whether express or implied by law regarding the eBay Logo, including without limitation warranties against infringement.

In the event of any breach of the terms and conditions set forth in this Policy or your written agreement with eBay, you agree that eBay shall be entitled to injunctive relief in addition to other available remedies.

* * *

Schedule 1 to Exhibit A

(attach logo)

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