

SERVICE AGREEMENT (PRIVATE PLAN)

Last updated: 2012-09-01

WHEREAS, UAB "Click2Sell", located at Ateities str. 77-27, LT-06324 Vilnius, Lithuania, company code 300110581, VAT code LT100005028414, (hereinafter - "**Click2Sell**") is a provider of comprehensive e-commerce services including, but not limited to, affiliate management system, sales tracking and shopping cart software (the "**Services**");

WHEREAS, you ("you" or the "**Seller**") are the business owner and seller of digital products or services (the "**Products**") subscribing to Click2Sell Services;

WHEREAS, www.click2sell.eu (the "**Website**") is secure online platform for using the Services;

WHEREAS, the buyer (the "**Buyer**") is person or entity that buys the Product for its own use from you;

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants and agreements contained herein, the parties hereby stipulate, agree and enter into the agreement (the "**Agreement**") as follows:

1. GENERAL PROVISIONS AND SCOPE OF THE AGREEMENT

- 1.1. This Agreement sets out general terms and conditions for using the Services under the Private Plan.
- 1.2. The Seller commits to pay for the Services and use the Services in a lawful manner, while Click2Sell commits to provide good quality Services.
- 1.3. By using the Services you understand and warrant that you have your own merchant account (e.g., PayPal, Authorize.net or other payment gateways) and you are going to collect money from Buyers directly into your merchant account.
- 1.4. This Agreement is a long-term contract.

2. ACCEPTANCE AND CHANGES TO THE AGREEMENT

2.1. Your access to and use of the Website and/or any Services is subject exclusively to this Agreement. BY REGISTERING FOR AND USING THE WEBSITE OR THE SERVICES YOU AGREE AND ACCEPT ALL OF THE THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT AND ALL THE POLICIES AND GUIDELINES THAT ARE INCORPORATED BY REFERENCE (INCLUDING, BUT NOT LIMITED TO, THE PRIVACY POLICY, THE FEES SCHEDULE AND THE PROHIBITED PRODUCTS LIST). You agree that any use by you of the Website and/or the Services shall constitute your acceptance of the Agreement and we recommend that you store or print-off a copy of the Agreement (including all policies) for your records. If you do not accept these terms and conditions you must immediately stop using the Website and/or the Services.

2.2. The Agreement comes into effect when the Seller completes the registration at the Website, and it is valid for unlimited time.

2.3. Click2Sell may change, amend, delete or add to this Agreement or any of the terms and conditions contained in any policies or rules governing the Website and/or the Services at any time and in its sole discretion. Any such changes will be effective upon the posting of the revised Agreement or such policies and rules on the Website and you are solely responsible for reviewing any such notice and the corresponding changes to the Agreement. Your continued use of the Website and/or the Services following any such revisions to the Agreement or such policies and rules will constitute your acceptance of such changes. If you do not agree to any such changes, do not continue to use the Website and the Services and close your Account.

2.4. Click2Sell may at any time change or remove (temporarily or permanently) the Website, Products or Sellers and their information from the Website without indicating the reasons of such change or removal and you confirm that Click2Sell shall not be liable to you for any such change or removal.

3. YOUR ACCOUNT

3.1. The Seller, who wants to start using the Services, has to register at the Website. After you agree to be bound by this Agreement and complete the registration form, Click2Sell will establish an account for you (the "**Account**") and provide you with the unique logon ID and password. Click2Sell is entitled to refuse to register a new Seller without indicating the reasons.

3.2. You can register more than one Account with Click2Sell. If you intend to use the Website both for meeting your needs as a natural person, and as a representative of a legal entity, then you have to create two separate Accounts in the Website – one for yourself as an individual user and another - for a legal person. It is prohibited to use the same Account for meeting the needs of both natural and legal person.

3.3. Use of the Website or/and the Services are limited to parties that are 18 years old or older and lawfully can enter into and form contracts under applicable law. To register, you must provide your information required in the registration form] and other information required in the registration form. Click2Sell will apply its undertakings and exercise its rights referring to this information. You authorize Click2Sell to verify the accuracy of your information and to perform credit or background checks as it desires. Click2Sell can also request you to provide any documents required to perform either your background check or check of your provided information. Particular documents that have to be submitted will be specified in the notification to you.

3.4. You are solely responsible for maintaining the confidentiality of your unique logon ID and password, and for their use. As traffic on this Website may be monitored, evidence of the use of the logon ID can be produced to support or defend any dispute or actionable cause or matter which arises in relation to your usage of the Service and/or the Website.

3.5. You confirm that at the registration at the Website you have entered correct data about yourself and that afterwards, when changing or adding this data in the Account, you will enter only correct data. The Seller shall bear any losses that occur regarding to the submission of invalid/incorrect data. You unconditionally warrant that any Product characteristics submitted by you at the Website and any other information, data and/or content you provide: (i) will be correct, accurate and not misleading or otherwise deceptive; (ii) will not infringe the intellectual property rights of Click2Sell or any third party such as copyright, patent, trademark, trade secret or other proprietary rights, rights of publicity or privacy; (iii) will not violate any law, statute, or regulation; (iv) will not be defamatory or libelous, and, (v) will not create liability for Click2Sell.

3.6. You shall not use the Website and/or the Services for any purpose that is unlawful or prohibited by this Agreement and legal requirements. The Seller's registration at the Website implies the Seller's confirmation and a guarantee that by using the Services the Seller will act honestly and in such way that it would meet the interests of both the Seller and Click2Sell. Click2Sell has a right to restrict the Seller's usage of the Website and/or the Services without prior notice if the Seller uses the Website in unlawful or other unaccepted way.

4. CLICK2SELL ROLE

4.1. Click2Sell provides a platform for third-party Sellers and Buyers to negotiate and complete transactions. Click2Sell is not involved in the actual transaction between Sellers and Buyers and is not the agent of them and has no authority for either of them for any purpose. As the Seller, you use the Website and/or the Services at your own risk.

4.2. When Buyers make a purchase from you through the Website and/or by using the Services, they are purchasing the Product from you and not from Click2Sell. Click2Sell has no control over Buyers who make purchases or the ability of Buyers to pay for Products they may purchase from you. Click2Sell has no responsibility to ensure that the Buyer completes a transaction with you or makes a final payment to you.

4.3. Click2Sell shall not verify or inspect the creditability or solvency of any Buyer and shall not be responsible for any settlements between you and Buyers. In no case Click2Sell is the owner of Products and has no obligation to control and inspect the quality of Products.

5. PRODUCTS AND PRICING

5.1. Click2Sell allows you to list and sell only digital products or services.

5.2. As the Seller, you may list any item in the Website unless it is a prohibited item defined in or similar to the items listed in the Prohibited Products and Activities List ([link](#)). Click2Sell may change the Prohibited Products and Activities List in its discretion, without notice to you or your consent.

5.3. Each of your listed item may be reviewed by Click2Sell before making it available to be purchased. Click2Sell may deny any Product for any reason.

5.4. By listing the Product in the Website, you represent and warrant to Click2Sell, prospective Buyers and Affiliates (if you chose to participate in the Affiliate Program) that you are the owner of the Product and/or have the right and ability to sell the Product and that the listing is accurate, current, and complete and is not misleading or otherwise deceptive. Click2Sell retains the right to immediately halt any sale, prevent or restrict access to the Website or the Services, or take any other action to restrict access to or availability of objectionable material, any inaccurate listing, any inappropriately categorized Products, any unlawful Products, or any Products otherwise prohibited by this Agreement or applicable law or in any other case in its sole discretion.

5.5. You commit to host Products on your own and provide the download link of the Product or the access to your service subscription to the Buyer.

5.6. You shall indicate the Product price in currency that you choose from the list of currencies available on the Website, including all the applicable taxes, shipping fees and other costs.

5.7. You commit to sell Products to Buyers at the listed purchase price. By listing the Product you agree to complete the transaction as described by Agreement.

6. TAXES

6.1. You agree that you are solely responsible for determining the amount of any taxes that you may owe as a result of your sale, and are solely responsible to collect, report and remit any such taxes required under law applicable to you. You acknowledge and agree that Click2Sell has no responsibility to collect, report or remit any applicable taxes in connection with your sale. You hereby agree to fully indemnify, defend and hold Click2Sell (and its affiliated entities) harmless from any and all claims,

demands, damages, awards, fines, costs, expenses and liability in any way associated with the foregoing obligations or otherwise with respect to any claim, demand or allegation of any tax in any way associated with any sale made by you through the Website and/or the Services.

7. PRODUCT OWNERSHIP

7.1. You (not Click2Sell) are the owner of your Products.

8. PRODUCT QUALITY AND WARRANTIES

8.1. You agree to sell only good quality Products.

8.2. You guarantee that your Products will be functioning normally and meet standard quality requirements and conditions of the respective kind of Products and will not have any hidden deficiencies.

8.3. If the Product that you sold is in a poor quality, the Buyer can return faulty Product to you and you must replace it with the good quality Product.

8.4. You shall have a policy with regard to the warranties of Products. Your Product warranty policy shall be clear, complete, accurate and prominently posted on a billing screen and available for review by the Buyer prior to the Buyer being obligated for a purchase of your Products.

8.5. You shall not provide, offer or advertise a warranty or guarantee for a period of more than one hundred and eighty (180) days without the prior written consent from Click2Sell.

8.6. You shall include in your Product warranty policy a prominently displayed disclaimer of any implied warranties, including without limitation, the implied warranties of vendorability and fitness for a particular purpose, and the warranty of non-infringement, on behalf of Click2Sell.

9. PRODUCT SUPPORT

9.1. You shall provide Product support to Buyers. You shall be solely responsible for the Product support to Buyers.

9.2. Product support means responses to the Buyer's inquiries, troubleshooting, the Buyer's education, provision of user manuals and other similar consultations.

9.3. You undertake to provide Product support in a timely manner after the support inquiry from the Buyer.

10. PRODUCT SHIPMENT

10.1. Because Click2Sell is not involved in the transaction between you and the Buyer and is not the agent of either of you for any, Click2Sell will not be involved in and will not be responsible for the shipment of Products ordered by the Buyer. You are solely responsible for a timely, accurate and proper shipment of Products to the Buyer.

10.2. You shall have a shipment guidelines clearly, completely, accurately, prominently posted on your billing screen and available for review by the Buyer prior to the Buyer being obligated for a purchase of the Product. The shipment guidelines shall inter alia specify (i) whether the Product price listed in the Website includes the shipment costs and (ii) shipping destinations that you cover.

10.3. You must ensure that you are legally able to sell each Product included in a listing on the Website, and that it is lawful to sell and export such Product to a person resident in the Buyer's jurisdiction. In any case Click2Sell shall not be responsible for verifying your right to list, sell and/or ship Products.

10.4. You shall ship the ordered Product(s) within 36 hours after Click2Sell informs you about the Buyer's order. You agree that Click2Sell has no obligation to ship any Product you sell to the Buyer. You agree that legal ownership and all risks of loss of your Products remains with you until the Buyer physically receives the Product from you. You agree that you will ship only the Product ordered by the Buyer and will not include any products, materials or information that was not ordered by the Buyer.

11. SERVICE FEES AND PAYMENTS

11.1. The Buyer may authorize payment to you by using the Services. Despite the authorization of such payment by the Services, Click2Sell is not the purchaser of the Product and any dispute with the Buyer must be resolved by you directly with the Buyer.

11.2. Contingent upon the purchase by the Buyer of the Product offered by you, you agree to pay Click2Sell fees (the "Commission Fees") in accordance with the terms set forth in the Fees Schedule ([link](#)). For the purposes of the payment of the Commission Fees, the moment of the purchase by the Buyer of the Product offered by you is the moment when the Buyer irrevocably places the order for the Product using Click2Sell's Website and/or the Services. You agree and acknowledge that no other circumstances, including, but not limited, to the actual closure of the transaction, cancelation of the purchase, shipment, delivery or return of the Product, payment of the price and/or refund of the price shall condition your obligation to pay the Commission Fees.

11.3. You shall pay the Commission Fees and settle accounts hereto according to the Commission Fees invoice presented to you by Click2Sell on the Website for the services rendered during previous month within twenty one (21) calendar days of the end of the month to which the invoice relates. Settlements shall be made by PayPal ([link](#)) or Moneybookers ([link](#)) to the corresponding accounts referred to by Click2Sell herein below. Any charges and commissions related to such settlements shall be paid by you. The Commission Fees shall be made in U.S. dollars, free of any currency control or other restrictions and do not include any taxes, duties or similar fees which may be collectable or withheld pursuant to law.

11.4. If you chose your Products to participate in the Affiliate Program you shall pay the Affiliates the Affiliates Commissions pursuant to the terms set forth in the Fees Schedule ([link](#)). Click2Sell will not be involved in and will not be responsible for the payment of the Affiliate Commissions to the Affiliates. You are solely responsible for a timely, accurate and proper payment of the Affiliate Commissions to the Affiliates. You shall pay the aggregated Affiliate Commissions according to the Affiliate Commissions invoice presented to you by Click2Sell on the Website for the referrals rendered during previous month within twenty one (21) calendar days of the end of the month to which the invoice relates. Settlements with the Affiliates shall be made by PayPal ([link](#)) or Moneybookers ([link](#)) to the corresponding Affiliate bank accounts indicated in the Affiliate Commissions invoice presented to you by Click2Sell on the Website. Any charges and commissions related to such settlements shall be paid by you. The Affiliate Commissions shall be made in U.S. dollars, free of any currency control or other restrictions and do not include any taxes, duties or similar fees which may be collectable or withheld pursuant to law.

11.5. The sums due to the Seller shall be clearly shown in the Sales reports in the Seller's Account.

11.6. Click2Sell may also temporarily hold any portion of the funds in your Account if Click2Sell, in its sole discretion, determines such action is needed to secure payment for, performance of, and/or assurances regarding any liabilities, obligations, or indebtedness you may incur with Click2Sell or any other third party.

12. RETURNS AND REFUNDS

12.1. Because Click2Sell is not involved in the transaction between you and Buyers and is not the agent of either of you for any purpose, Click2Sell will not be involved in resolving any disputes between you and the Buyers related to or arising out of any transaction. In case Click2Sell gets involved into any dispute by any third party you shall indemnify and hold harmless Click2Sell against any and all liability, claims, suits, losses, costs and legal fees caused by, arising out of, or resulting from any such dispute.

12.2. You shall have a policy with regard to the cancellation, returns and refunds of Products on your website. Your return and refund policy shall be clear, complete, accurate and prominently posted on a billing screen and available for review by the Buyer prior to the Buyer being obligated for a purchase of your Products. Using the options presented to you on the Website you shall choose the refund term.

12.3. You agree that Click2Sell have the right to provide your email address and other contact information to Buyers who purchase your Product. Your return and refund policy inter alia shall include provisions that you will provide a prompt refund to the Buyer if he/she did not receive the Product you shipped, if the Product is damaged during shipment, if the Product does not match the description as listed, or if the Buyer receives a Product other than the one he/she ordered. You shall provide the refund promptly, but in no case later than within the indicated refund term following the Buyer's request .

12.4. Any Buyer who believes he/she may be entitled to a refund on this basis can contact you directly. Click2Sell will not be involved in disputes or contact Buyers on your behalf. If the Buyer submits a claim to Click2Sell concerning your Product or the order from you, Click2Sell in its sole discretion may research the claim and may (or may not) contact you concerning the claim. You agree to respond to any inquiry by Click2Sell within two (2) days. You agree and acknowledge that Click2Sell's decisions concerning the claim are final and binding and you agree to abide by such decisions. In the event Click2Sell pays any amount to the Buyer in connection with the Buyer's claim concerning your Product or the order from you, or the Buyer seeks a chargeback with the Buyer's credit card company, you agree to promptly reimburse Click2Sell for the amount of the transaction and any associated fees and charges.

13. AFFILIATE PROGRAM

13.1. Click2Sell may choose to offer an affiliate program to the third parties (the "Affiliates") under which the Affiliates may promote Click2Sell and your Products and refer buyers to the Website (the "Affiliate Program"). If you wish your Products to participate in the Affiliate Program you may choose such option in your Account on the Website. By choosing this option you grant the Affiliates a non-exclusive, worldwide, royalty-free license solely for the purposes of facilitating referrals to the Website, to establish and maintain the links to your Product website and to publish any of your Content (as described in this Agreement) on their websites.

13.2. You shall manage commission payments and pay your Affiliates commissions by yourself pursuant to this Agreement.

13.3. Because Click2Sell is not involved in the transaction between you and Affiliates and is not the agent of either of you for any purpose, Click2Sell will not be involved in resolving any disputes between you and Affiliates related to or arising out of any transaction.

13.4. However, Click2Sell at any time and in its sole discretion may choose to pay any Affiliates their Affiliate commissions or any part of it that you owe. In such case, you agree to compensate Click2Sell for the amounts that Click2Sell paid to Affiliates as their Affiliate commissions. This amount will be included into invoice presented to you by Click2Sell on the Website for the Services rendered during previous month or other intervals determined by Click2Sell and you shall pay it at the same time as you pay the Commission Fees for the previous month or other intervals determined by Click2Sell.

14. INTELLECTUAL PROPERTY

14.1. The URLs representing the Click2Sell Website(s), "Click2Sell," and all related logos of our Services described in our Website are either copyrighted by Click2Sell, trademarks or registered trademarks of Click2Sell or its licensors. In addition, all page headers, custom graphics, design, button icons, scripts and source code are copyrighted by Click2Sell. You may not copy, imitate, modify, alter, amend or use them without our prior written consent. All right, title and interest in and to the Website and any content thereon is the exclusive property of Click2Sell and its licensors.

15. PRIVACY AND PERSONAL DATA MANAGEMENT

15.1. You shall agree and comply with the procedures and conditions set in the Click2Sell's Privacy Policy ([link](#)).

15.2. Your personal data that you provide will be used to indentify you as the Seller and to execute this Agreement.

15.3. You acknowledge and agree that Click2Sell may provide to the Buyers and the Affiliates (if you chose to participate in the Affiliate Program) information that is reasonably necessary for them to communicate with you regarding any issues that may arise in connection with their purchase or Product, or referral. You agree that Click2Sell shall not be liable for the collection and/or disclosure of such information to the Buyer or the Affiliate.

15.4. You shall not to use any information about other Website and/or Services users which may become known to you from the Website or which may be disclosed to you by Click2Sell, except to enter and complete transactions, and not to use any such information for purposes of solicitation, sending unsolicited email or spamming, harassment, or other activities that Click2Sell deems unacceptable or objectionable.

16. TERMINATION (LIMITATION) OF THE AGREEMENT

16.1. The term of this Agreement is for a period of time when you successfully register for the Click2Sell Account until this Agreement is terminated for whatever reason. You may close your Account and terminate this Agreement at any time by logging in to your Account and then following the instructions. Account cancellation shall mean the Agreement termination.

16.2. At any time and for any reason in its sole discretion Click2Sell may terminate this Agreement, your access to the Website and/or the Services, your Account and may halt any pending listings or sales at any time without notice to you. Click2Sell shall have no liability or obligation for the termination of this Agreement.

16.3. You may not close your Account to evade an investigation on your fraudulent activities. If you attempt to close your Account while we are conducting an investigation, we may hold your funds for up to 180 Days to protect Click2Sell or a third party against the risk of reversals, chargebacks, claims, fees, fines, penalties and other liabilities of whatever nature. You will remain liable for all obligations related to your Account even after the Account is closed.

17. INDEMNIFICATION

17.1. You agree to indemnify and hold Click2Sell, its parent, sister companies, subsidiaries, affiliates, service providers, sellers, distributors, licensors, officers, directors and its employees harmless from and against all liabilities, legal fees, damages, losses, costs and other expenses in relation to any claims or actions brought against Click2Sell arising out of any breach by you of this Agreement or other liabilities arising out of your use of this Website or the Services.

17.2. You are responsible for all reversals, chargebacks, fees, fines, penalties and other liability and/or losses incurred by Click2Sell, the Buyer, or a third party caused by your use of the Services and/or arising from your breach of this Agreement. You agree to reimburse Click2Sell, the Buyer, or a third party for any and all such liability.

17.3. If the Buyer claims for damage reimbursement in relation to your Product, you must immediately act on reimbursing such damage.

17.4. If you sell Products that does not comply with statutory requirements and state authorities apply sanctions to Click2Sell for listing such Products to Buyers, you must reimburse these losses to Click2Sell.

18. EXCLUSION OF WARRANTIES AND LIABILITY

18.1. YOU SHALL ACCEPT THE WEBSITE AND THE SERVICES "AS IS" WITH ANY FAULTS OR FAILINGS AND WITHOUT ANY REPRESENTATION, WARRANTY OR GUARANTEE WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF ACCURACY, COMPLETENESS, QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

18.2. IN NO EVENT WILL CLICK2SELL BE LIABLE FOR ANY INJURY, LOSS, CLAIM, DAMAGES OR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH ANY YOUR OR CUSTOMER'S ACCESS TO, OR USE OF THE WEBSITE AND/OR SERVICES, ANY MATERIAL THEREON OR ANY PRODUCTS, GOODS, MATERIALS OR SERVICES AVAILABLE THEREFROM, WHETHER BASED IN CONTRACT, TORT AND WHETHER NEGLIGENT OR OTHERWISE, EVEN IF CLICK2SELL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT THAT THIS EXCLUSION OF LIABILITY IS HELD BY A COURT OF COMPETENT JURISDICTION TO BE UNLAWFUL, BUT THAT LIABILITY MAY BE LAWFULLY LIMITED, CLICK2SELL'S AGGREGATE TOTAL LIABILITY TO YOU FOR ALL SUCH DAMAGES AND LOSSES SHALL BE LIMITED TO THE 50 USD.

19. MISCELLANEOUS PROVISIONS

19.1. If any section or portion(s) of this Agreement is declared invalid by any court of competent jurisdiction or a government agency having jurisdiction, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those to which it is held invalid by such court, shall not be affected thereby, and this Agreement shall remain in full force and effect. To the extent possible, the parties shall reform such invalidated section or portion(s) thereof in a manner that will render such provision valid without impairing the parties' original intent.

19.2. This Agreement is personal to you and it can not be transferred, assigned or delegated to anyone. Any attempt by you to assign, transfer or delegate this Agreement and the rights and/or obligations stipulated in this Agreement shall be null and void. Click2Sell may freely assign this Agreement without consent or notice.

19.3. All the notices, consents and other communication of the parties related to this Agreement shall be delivered via e-mail or in the Account panel.

19.4. These Terms and Conditions shall be interpreted and governed in general by the laws of the Republic of Lithuania, without respect to the conflict of laws provisions. Any dispute or claim with respect to the validity, construction or enforceability of these Terms and Conditions or arising out of or in relation to these Terms and Conditions, or for the breach hereof shall be initially resolved by the parties in good faith within thirty (30) days from the day of notice by any of the parties to the other party as to the existence of a dispute or claim. The dispute not settled by the parties through negotiations or correspondence shall be adjudicated by the Court of the Republic of Lithuania in accordance with the procedure determined in the regulatory enactments of the Republic of Lithuania.