

## Terms and Conditions

These Terms are entered into between Performance Horizon Group Limited (Company Number 07188234), ("PHG") and you ("Student Affiliate "). By ticking the box below, Student Affiliate agrees and undertakes: - that it has the capacity and authority to enter into these Terms and bind the company or organisation it represents to them; and that the Student Affiliate represents agrees to be bound by these Terms.

### 1. Student Affiliate Sign-Up

1.1 Student Affiliate's application to become a Student Affiliate on the relevant Unity campus may be approved in UnityUnity Technologies ApS, ("Unity") sole discretion ("Approved").

1.2 If Approved, Student Affiliate will have access to a Student Affiliate Management Area.

1.3 If Student Affiliate wishes to participate in a Programme, Student Affiliate may apply to PHG by supplying the requested information and following such other instructions as are stated in the Student Affiliate Management Area.

1.4 Student Affiliate's participation in a Programme is at the discretion of the Unity who operates the Programme.

1.5 If Unity approves Student Affiliate's participation, Student Affiliate further agrees to be bound by any specific conditions which Unity may impose from time to time.

### 2. User and Order Tracking

2.1 PHG shall create Links and supply these to Student Affiliate, which allow PHG and PHG's partners (including Unitys) to track Users referred by Student Affiliate, and in respect of which Programme, and track Student Ambassadors.

2.2 Student Affiliate must implement the Links in Student Affiliate's Site in accordance with PHG's instructions, maintain them at all times as fully operational, and ensure they are updated in accordance with PHG's instructions.

2.3 Student Affiliate expressly acknowledges and agrees that Student Affiliate's delay in, or failure to, implement, operate and maintain Links correctly may cause Referrals not to be identified, and no Commission shall be payable to Student Affiliate in respect of such unidentifiable Referrals.

### 3. IP Licences, Branding and Ownership

3.1 Each Party grants the other a non-exclusive, revocable, sub-licensable, royalty-free licence, to use, reproduce and display its respective Intellectual Property for the purposes of providing the Service and operating the Programmes in which Student Affiliate participates.

3.2 Nothing in these Terms shall operate to transfer any interest or ownership in the Intellectual Property Rights of one Party to the other.

### 4. Commission

4.1 Commission is due in respect of Referrals that result in Approved Transactions. Student Commission is due in respect of the provision of Student Services by Student Ambassadors.

4.2 An "Approved Transaction" is the sale of goods or supply of services, or sign-up or other User-initiated action as specified in a Programme Description which has been confirmed by Unity as approved;

### 5. Payment.

5.1 Payment for Commissions is dependent upon Unity providing such funds to PHG and therefore, Student Affiliate agrees that PHG shall only be liable to Student Affiliate for Commissions to the extent that PHG has received such funds from the Unitys. Student Affiliate hereby releases PHG from any claim for Commissions if PHG has not received such funds from the Unity. Payment for Student Commission is dependent on Unity Technologies ApS providing such funds to PHG.

5.2 Commissions shall only be due for payment to Student Affiliate once Student Affiliate has earned Commissions above the minimum payment threshold of £20/\$30/€30 per month (equivalent to £20 in all other currencies). For the avoidance of doubt, Commissions earned below the threshold in any month shall be transferred to the following month.

5.3 Student Affiliate expressly acknowledges and agrees that if Student Affiliate does not clear their funds or provide sufficient information for PHG to electronically transfer funds to Student Affiliate within 18 months of the date on which Student Affiliate invoice can be generated in Student Affiliate's Management Area, PHG shall be entitled to retain such unclaimed Commission for PHG's own account, and Student Affiliate shall forfeit any claim in respect of it.

5.4 PHG reserves the right to claim back un-cleared funds if transactions later turn out to be as a result of Unethical Activities.

5.5 PHG has the authority of HMRC to raise VAT invoices on Student Affiliate's behalf. Student Affiliate is required to keep PHG updated with information relating to Student Affiliate's VAT status (including but not limited to VAT registration status, VAT number (if applicable), address and organisation name), and to ensure the payment details in Student Affiliate's Management Area are correct.

5.6 Student Affiliate therefore agrees:

5.6.1 not to issue VAT invoices to PHG for Commissions earned, and

5.6.2 PHG shall raise self-billing VAT invoices on Student Affiliate's behalf for the duration of these Terms.

## 6. Student Affiliate Warranties.

6.1 Student Affiliate represents, warrants and undertakes to PHG that:

(a) it has the full corporate right, power and authority to enter into these Terms and to perform the acts required under them;

(b) its acceptance of these Terms, and its performance of its obligations and duties under them, do not and will not breach any agreement to which Student Affiliate is party or by which it is otherwise bound;

(c) all information and data Student Affiliate supplies to PHG, Unity, Users and any other party through or in connection with these Terms is correct, accurate and not misleading;

(d) Student Affiliate's Site and Student Affiliate's activities through and in connection with the PHG Services and the relevant Unity Network, and any data processing in relation to Users shall comply with any and all applicable laws, regulations and codes of conduct in force from time to time as amended, re-enacted, extended or consolidated;

(e) it shall adhere to the Student Affiliate Guidelines at all times, as well as industry best practice in promoting the Programme. Promotion that is unacceptable includes but is not limited to, promotion by unsolicited email;

(f) its Site and its activities through and in connection with the PHG Services and relevant Unity Network shall not contain any Malware or other equivalent or similar code or material;

(g) it shall provide a clear and conspicuous link to its privacy policy from each page on its Site;

(h) it shall include a statement in its privacy policy that PHG, Unity (or another third party, where applicable) may use code or cookies on Student Affiliate's website to track the performance of Unity's marketing efforts, and that no personally identifiable information is collected in such process;

(i) any Intellectual Property it uses does not and will not infringe any third-party right (including without limitation by being obscene, defamatory or infringing any copyright, trade mark or other proprietary right).

## 7. Student Affiliate Indemnity

7.1 Student Affiliate hereby undertakes to keep PHG, PHG's Associated Companies and PHG's Unity (together with their directors, employees and agents) fully and effectively indemnified against any and all costs, claims, expenses and liabilities (including reasonable legal fees) arising from a result of:

(a) any breach of the warranties set out in clause 6; and

(b) any contaminated file, virus, worm or trojan horse originating from Student Affiliate's Site (any matter within the scope of this indemnity being a "Claim").

7.2 PHG shall notify Student Affiliate of any Claim and take reasonable account of Student Affiliate's directions with regard to that Claim.

7.3 Clause 11 of these Terms shall not apply to this clause 7.

## 8 PHG Warranties

8.1 PHG represents, warrants and undertakes to Student Affiliate that:

(a) it has the full corporate right, power and authority to enter into these Terms and to perform the acts

required of it under them;

(b) its execution of these Terms and the performance of its obligations and duties under them, do not and will not breach any agreement to which it is a party or by which it is otherwise bound; and

(c) Student Affiliate's use of PHG's Intellectual Property shall not infringe the intellectual property or other rights of any third party.

## 9 Limited Warranty

9.1 Student Affiliate acknowledges and agrees that the Services are provided on an 'as is' basis, and that PHG does not make any warranty in relation to Service availability or uptime, nor that the Service is suitable for Student Affiliate's particular requirements, or will result in any particular level of income or business to Student Affiliate.

## 10 Term, Termination and Suspension

10.1 These Terms commence on the Effective Date and shall remain in force until terminated in accordance with its provisions.

10.2 Either Party may terminate these Terms at any time on written notice to the other Party in the event of:

(a) a material breach of these Terms by the other Party; or

(b) the other Party passing a resolution, or a court of competent jurisdiction making an order, that the other Party be wound up, a receiver, administrative receiver, administrator or manager is appointed over any part of the business or assets of the other Party; the other Party is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any similar event occurs in any other jurisdiction in respect of the other Party.

10.3 Further, PHG may terminate these Terms:

(a) immediately and without notice if Student Affiliate engages in Unethical Activities or breaches clause 6 or 13 of these Terms; and

(b) on immediate notice without cause.

10.4 Student Affiliate may terminate these Terms on immediate notice without cause.

10.5 PHG may suspend its provision of Services or Student Affiliate's participation in any Programme, or disable Links, where PHG believes it is necessary to avoid damage, loss or liability to PHG, PHG's Associated Companies or Unity, including, without limitation, if PHG believes Student Affiliate is engaged in any Unethical Activities.

10.6 If PHG exercises its rights of suspension under clause 10.5, it shall notify Student Affiliate as soon as practicable and resume provision of Services and/or the Programme as soon as it is satisfied the reason for suspension no longer applies.

10.7 Except for PHG's obligations in clause 13, PHG shall be relieved of all liability, duty and obligation to Student Affiliate (including, without limitation, any payment obligation) during the period of such suspension. For avoidance of doubt, Student Affiliate shall not be entitled to any Commission, compensation or any other form of payment in respect of any period of suspension, whether or not the suspension is lifted and Student Affiliate is subsequently re-granted access to the PHG Network.

## 11 Limitation of Liability

11.1 Nothing in these Terms shall limit or exclude the liability of either Party for loss or damage due to or arising from death, personal injury or fraudulent misrepresentation.

11.2 Save in relation to clause 7 above, neither Party shall be liable to the other for loss of profits, or indirect, incidental or consequential damages, even if such Party has been advised of the possibility of such damages, incurred as a result of or in connection with these Terms, whether arising out of breach of contract, negligence or howsoever.

11.3 PHG's maximum liability to Student Affiliate in relation to Student Affiliate's direct losses arising from PHG's breach of any provision of these Terms shall not exceed the Commission received or due to Student Affiliate in the 3 months prior to the event which gave rise to liability.

## 12 Disputes and Notices

12.1 Both Parties shall use all reasonable endeavours to resolve bona fide disputes, in the first instance, with the account managers for the Programme or other appropriate officer nominated from time to time.

12.2 If no such resolution occurs within 30 days of commencement, either Party may escalate such dispute to a superior within PHG, with both parties agreeing to attempt to resolve such dispute within a further 30 day period.

12.3 Any notice given under these Terms shall be in writing and shall be considered given or made: where sent by hand or courier, upon receipt; where sent by first class pre-paid post, on the second working day following the date of posting; or where given by fax (subject to retention by the sending Party of confirmation of successful transmission), four hours after the time of successful transmission; or where given by e-mail immediately on transmission; or where posted on the PHG website immediately the posting is made.

12.4 Notices shall be delivered or posted to the addresses of the Parties given above or to any other address notified in substitution.

### 13 Confidentiality

13.1 Both Parties shall take reasonable steps during the Term, and for two years thereafter, to prevent disclosure of Confidential Information of the other Party other than to its employees or agents who must have access to such Confidential Information to perform such Party's obligations hereunder and who have each agreed to comply with this provision.

13.2 Notwithstanding the foregoing, either Party may disclose Confidential Information without the consent of the other Party to the extent such disclosure is required by law. Both Parties may publicise the relationship, subject to the other Party's approval of any publicity materials, such approval not to be unreasonably withheld or delayed.

### 14 Force Majeure

14.1 Neither Party shall be liable for, or be considered in breach of these Terms on account of any delay or failure to perform as required by these Terms as a result of any causes or conditions which are beyond such Party's reasonable control, including but not limited to acts of God, acts of government, strikes or war, and which such Party is unable to overcome by the exercise of reasonable diligence.

### 15 General Provisions

15.1 Failure of either Party to insist upon or enforce strict performance by the other Party of any provision of these Terms or to exercise any right under these Terms shall not be construed as a waiver of such Party's right to assert or rely upon any such provision or right in that or any other instance.

15.2 These Terms comprise the entire agreement between the Parties, and supersedes all prior agreements, statements, and representations whether negligent or otherwise (other than fraudulent misrepresentations) by either Party in relation to its subject matter.

15.3 Other than expressly provided for in these Terms, a person (natural or legal) who is not a Party to these Terms has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms, but that does not affect any right or remedy of a third party which exists or is available apart from that Act.

15.4 Student Affiliate shall not assign these Terms or any right, interest or obligation under them without PHG's prior written consent. PHG may assign these Terms or any of its rights, interests or obligations under them to any third party including without limitation any Associated Company without restriction or to any successor of PHG's by way of merger, consolidation or the acquisition of all or substantially all of PHG's business and assets relating to these Terms.

15.5 Solely to the extent there is any inconsistency between the Programme Description and these Terms, these Terms shall prevail.

15.6 If any provision of these Terms is or becomes invalid or illegal in any respect, that provision shall be deemed severed from these Terms but the validity, legality and enforceability of the remaining provisions shall not be affected.

15.7 The clause headings in these Terms are included for convenience only and shall not affect their construction.

15.8 Neither Party shall have the right to bind the other to any agreement with a third party nor to represent itself as an agent, partner or joint venture of the other, nor to incur any obligation or liability on behalf of the other.

15.9 The expiry or termination of these Terms (for whatever reason) shall not terminate any provision or obligation which is expressly or by implication provided to come into or continue in force after such termination and shall be without prejudice to the accrued rights and liabilities and other remedies of the Parties.

15.10 These Terms shall be governed by English law and the Parties irrevocably submit to the exclusive jurisdiction of the English Courts.

## 16 Updates

16.1 PHG may update these Terms from time to time by publishing a new version on the PHG website.

16.2 PHG will notify Student Affiliate of updates of these Terms via email, the Student Affiliate Management Area or other suitable method.

16.3 Student Affiliate's continued use of the Services and/or participation in a Programme after the date of any such update constitutes Student Affiliate's acceptance to be bound by the updated terms.

16.4 If Student Affiliate does not agree with any proposed update to these terms, Student Affiliate must notify PHG and, in accordance with PHG's direction:

- (a) cease further participation in any then-active Programmes;
- (b) agree to continue any then-active Programmes in accordance with PHG's reasonable directions.

## 17 Retention of Title

17.1 Title to all payments due to Student Affiliate pursuant to Approved Transactions shall remain vested in PHG and shall not pass to Student Affiliate until the Commission has been paid in full by Unity and received by PHG.

17.2 Until such title passes:

- (a) Student Affiliate shall have authority to deal with and/or dispose of all or any part of the Commission;
- (b) Student Affiliate and its agents and employees shall be entitled at any time and without the need to give notice to obtain payment of the Commission;
- (c) PHG shall keep such Commission in a separate account indicating that title to Commission remains vested in Student Affiliate; and
- (d) PHG shall insure the Commission, and arrange for Student Affiliate to be noted on the policy of insurance as the loss payee.

## 18. Definitions.

In these Terms, the following words have the following meanings:

"Unity" means a third party whose goods or services Student Affiliate promotes to Users as part of a Programme which may include agencies responsible for multiple Unity Programmes;

"Unity Network" means the proprietary network through which Student Affiliate may advertise and market the Unity's products and services to Users via Student Affiliate's Site;

"Approved Transaction" means a Transaction that has been approved in accordance with the process set out in clause 4;

"Associated Company" means a member of PHG's group, and any entity that controls, is controlled by or is under common control with any of the foregoing entities;

"Commission" means the fee due to Student Affiliate in respect of Approved Transactions;

"Confidential Information" means these Terms and all communications and information, whether written, visual, or oral, and all other material supplied to or obtained, whether electronic or not, by either Party from the other during the Term and all information, reports, drawings, recommendations, data or advice given by either Party to the other in pursuance of its obligations under these Terms, and shall (without limitation of the foregoing) include any information from whatever source supplied to or obtained by either Party concerning the trade secrets, customers, business associations, technical or commercial affairs of the other Party or in the case of PHG any Associated Company, partners, joint ventures or any Unity or business associate of PHG;

"Effective Date" means the date of execution of these Terms (or the later of different dates), as evidenced by the records indicating the date the Student Affiliate signed up to the network;

"Intellectual Property Rights" means patents, rights in designs, trade marks, trading business or domain names, email addresses, copyrights (including any such rights in typographical arrangements, web sites or

software), whether registered or not and any applications to register or rights to apply for registration of any of the foregoing rights in inventions, know how, trade secrets and other Confidential Information, rights in databases and all other intellectual property rights of a similar or corresponding character, which subsist now or in the future in any part of the world;

"Link" means the link PHG supplies to Student Affiliate for inclusion on Student Affiliate's Site, which when clicked on by a User, identifies:

1. that the User has been referred by Student Affiliate; and
2. the Programme in which the User is participating;

"Malware" means software programmes designed to damage or do other unwanted actions on a computer system;

"Parties" shall mean the Student Affiliate and PHG, and "Party" shall mean either one of them;

"Programme" means a commercial offer or set of offers of Unity's products and services specified in a Programme Description, or as to Students, Student Affiliate's product and services;

"Programme Description" means the key parameters of a Programme, which may include, without limitation, a description of the Unity's company, commission rates, cookie period, specific Student Affiliate terms and conditions and other similar information;

"Student Affiliate Guidelines" means the guidelines attached to these Terms in Schedule 1;

"Student Affiliate Management Area" means the PHG reporting interface located at URL [www.performancehorizon.com](http://www.performancehorizon.com) ;"Referrals" means the Student Affiliate's referral or introduction of a User to an Unity as part of a Programme, which may result in an Approved Transaction.

"Services" means the provision of the PHG network and operation of the Programmes;

"Site" means Student Affiliate's site, blog, forum, voucher code, email list or other mechanic designed or intended to refer Users to Unity;

"Student Ambassadors" means individuals who provide Student Services as a result of the activities of Student Affiliate.

"Student Commission" means the fee due a Student in respect to the Student Services.

"Student Services" means the workshops, training, game expos, hack-a-thons and related services.

"Term" means the duration of these Terms, beginning on the Effective Date and continuing until the date of termination by either Party, or expiration;

"Terms" means these terms and conditions, as updated from time to time;

"Transaction" means the sale or supply of any Unity's goods or services to Users, or introductions, referrals or other User interactions in respect of Unity's goods or services as defined in the applicable Programme;

"Unethical Activities" has the meaning ascribed to it in Schedule 1, Paragraph 2;

"User" means an individual consumer who purchases, applies for, enquires about or otherwise takes action in respect of Unity's products and services.

## SCHEDULE 1

### Student Affiliate Guidelines

1. Each Student Affiliate undertakes to PHG that it shall not engage in any fraudulent, unethical or unlawful activity Unity and Users ("Unethical Activities"). Examples of Unethical Activities include, but are not limited to:

- 1.1. use of inappropriate software (whether third party or otherwise) in order to create financial gain for Student Affiliate
- 1.2. bidding on disallowed key terms within paid search, or any other third party advertising system based on keywords, without PHG's and/or Unity's prior approval
- 1.3. implementing links, where there is an incentive to click on them without a User's full knowledge of the consequences of their actions - for example, activating a cookie which may later mean a conversion of sale to the owner of the Student Affiliate link ('forced clicks')
- 1.4. mimicking the action of an Student Affiliate link click which results in a cookie being stored on a User's machine which could later lead to the conversion of a sale to said Student Affiliate

2. The provisions of this paragraph apply to Student Affiliates whose Site comprises an email list ("Email Student Affiliates"). PHG shall indicate whether each Email Student Affiliate must:

- 2.1. obtain PHG's approval before sending email promotions on behalf of Unity to Users;

- 2.2. promptly supply examples of email promotions which Email Student Affiliate proposes to use;
- 2.3. promptly provide full disclosure as to the origin and source of its list or database of email addresses, including supplying satisfactory evidence that these have been properly purchased or licensed; details of the party from whom they have been purchased or licensed; and details which demonstrate that they have been created, supplied and operated in accordance with data protection and other applicable laws.
- 2.3. It is each Student Affiliate's responsibility to protect and maintain the confidentiality of their logins, Links and other data used to manage access to the Student Affiliate Management Area and Programmes, to ensure that a third party may not change Student Affiliate's details without Student Affiliate's knowledge.
- 2.4. Each Student Affiliate must specify the URLs it will use to track Transactions as part of the sign up process via the Student Affiliate Management Area ("Authorised URLs"). PHG may ignore transactions entered into via URLs other than Authorised URLs and/or withhold Commission in respect of them. A Student Affiliate may add additional or substitute URLs from time to time via the Student Affiliate Management Area, but such URLs will only become operational once confirmed as such by Student Affiliate's account manager.
- 2.5. From time to time, PHG may request information from Student Affiliate to evidence how and where Student Affiliate is promoting its Site, and Student Affiliate shall supply such information promptly to PHG.
- 2.6. If any Student Affiliate or User has configured its system in order to disable any technology for confirming the means of referral, PHG will treat the User as not having been referred by any Student Affiliate.
- 2.7. All information in the Student Affiliate's Management Area must be complete and accurate at all times. PHG reserves the right to request proof of Student Affiliate's identity at any time. If Student Affiliate does not provide this within time period specified by PHG then PHG may terminate these Terms on immediate notice.