

**DIGITAL WINDOW LIMITED  
USER AGREEMENT**

This User Agreement sets out the terms between you and Digital Window Limited (“**We**”, “**Us**” or “**DWL**”) under which you may access our Website <http://darwin.affiliatewindow.com> (the “**Website**”). This User Agreement applies to all users of, and visitors to, the Website, whether they are registered or not (each a “**User**”, collectively “**Users**”) and constitutes a legally binding agreement between each User individually and DWL. If you, the User do not accept the terms of this User Agreement, you cannot use the Website.

By clicking the ‘Step Two’ button during the registration process, or by using the Website, you accept abide by the terms and conditions of this User Agreement.

<http://darwin.affiliatewindow.com> and <http://wiki.affiliatewindow.com> are websites operated by DWL, which trades as Affiliate Window. DWL is registered in England and Wales under company number 04010229 and its registered office is at 3rd Floor 100 Leaman Street, London E1 8EU, which is also DWL’s main trading address. DWL’s VAT number is GB766030930.

**THE PURPOSE OF THE WEBSITE IS TO PROMOTE THE BUSINESS OF THE AFFILIATE MARKETING INDUSTRY, BY ENABLING THE EXCHANGE OF VIEWS, IDEAS AND INFORMATION BETWEEN DWL, AFFILIATES, MERCHANTS AND OTHERS INTERESTED OR INVOLVED IN THE AFFILIATE MARKETING INDUSTRY. THIS WEBSITE IS AVAILABLE TO THE PUBLIC. USERS DO NOT HAVE ANY EXPECTATION OF PRIVACY WHATSOEVER WITH REGARD TO INFORMATION THEY SUBMIT TO THE WEBSITE.**

**1. Prohibited uses**

1.1 This Website is to be used for lawful purposes only. You may not use the Website:

- (i) in any way that breaches any applicable local, national or international law or regulation;
- (ii) if you are under the age of 18;
- (iii) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- (iv) for the purpose of harming or attempting to harm minors in any way;

- (v) to send, knowingly receive, upload, download, use or re-use any Content (as defined below) which does not comply with our Content Standards, which are set out at clause 5;
- (vi) to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of solicitation, marketing, transaction, video, photo, sound, notice or advice;
- (vii) to knowingly transmit any data, send or upload any Content that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware;
- (viii) to reproduce, duplicate, copy or re-sell any part of the Website in contravention of the terms of this User Agreement; and
- (ix) to access interfere with, cause damage or disrupt:
  - A. any part of the Website;
  - B. any equipment or network on which the Website is stored;
  - C. any software used in the provision of the Website; or
  - D. any equipment or network or software owned or used by any third party.

## **2. Your User Account**

- 2.1 When you register on the Website you will be allocated a personal website account, which you can access by entering your username and password ("**User Account**").
- 2.2 The User Account is for a single User only. DWL will not permit you to share your username and password with any other person nor with multiple Users on a network. Responsibility for the security of any passwords issued rests with you.
- 2.3 If you use multiple User Accounts for the purpose of disrupting the Website or other Users you may have action taken against all of your accounts.
- 2.4 All User Accounts must be registered with a valid personal email address that you access regularly so that moderation emails can be sent to you. User Accounts registered with someone else's email address, or with temporary email addresses, may be closed without notice. We may require Users to re-validate their User Account if we believe they have been using an invalid email address.

- 2.5 DWL reserves the right to close User Accounts if we believe the User is using proxy internet protocol addresses in order to attempt to hide the use of multiple accounts or disrupt the Website in any way.

### 3. **Privacy Policy**

We process information about you in accordance with our Privacy Policy <http://darwin.affiliatewindow.com/documents/legal/privacypolicy.pdf>

### 4. **Interactive Services**

- 4.1 The Website may from time to time provide certain services which enable Users to submit information, statements, content, documents, ideas, concepts, techniques or data ("**Content**") to the Website ("**Interactive Services**")
- 4.2 Where we do provide any Interactive Service, we will provide clear information to you about the kind of service offered, if it is moderated and what form of moderation is used (including whether it is human or technical).
- 4.3 We are under no obligation to oversee, monitor or moderate any Interactive Service we provide on the Website, and we expressly exclude our liability for any loss or damage arising from the use of any Interactive Service by a User in contravention of our content standards, whether the service is moderated or not.
- 4.4 DWL has no obligation to verify the identity of any Users when they are connected to the Website or to supervise the Content which has been provided by Users.
- 4.5 Where we do moderate an Interactive Service, we will normally provide you with a means of contacting the moderator, should a concern or difficulty arise.
- 4.6 Although some Interactive Services may allow you to choose to hide Content you submit from certain classes of other Users ("**Privacy Settings**"), we cannot guarantee that any of these Privacy Settings will be effective or that Content subject to these Privacy Settings will not be made generally and publicly available by other Users or by third parties. We will, however, use commercially reasonable efforts to control the display of Content that is restricted by the Privacy Settings to other Users in accordance with the Privacy Settings you have chosen.
- 4.7 If you submit Content we cannot guarantee that other Users of the Website will not use the Content you have submitted. Therefore, if you have Content that you would like to keep confidential and/or don't want others to use, do not submit it to an Interactive Service or to any other

part of the Website. We are not responsible for the misuse or misappropriation by other Users of the Website of any Content submitted by you to an Interactive Service.

- 4.8 Please note that certain Content which you may choose to submit to our Interactive Service or to any other part of this Website may reveal personal information about you ("**Personal Data**"). Some Personal Data may be sensitive in nature, for example your ethnic origin, nationality, religion and/or sexual orientation ("**Sensitive Data**"). Any Personal Data or Sensitive Data is provided voluntarily and with your consent for its use, storage, disclosure and possible export out of the EU. By providing such Sensitive Data to us you are hereby expressly giving your informed consent to the storage and processing by us of such Sensitive Data.
- 4.9 Prior to submitting Content to the Website, you must consider and decide, yourself, the extent to which you wish to reveal Personal Data or Sensitive Data about yourself to the large community of other Users of this Website, and to us, and you must not communicate to us or to other Users of the Website any Content which could be harmful to you if disclosed, processed or published in any way. Any Personal Data or Sensitive Data provided by you is given at your own discretion for all purposes and without expectation of protection or privacy, and can be exported outside of the EU.
- 4.10 No Interactive Service provided by the Website will require, oblige or necessitate the disclosure or submission of any Sensitive Data by any User. All Sensitive Data disclosed or submitted to the Website by any User is done at that User's sole risk and DWL disclaims all liability in relation to all Sensitive Information disclosed or submitted to any Interactive Service or any other part of the Website to the fullest extent permitted by law.

## **5. Content standards**

- 5.1 These content standards apply to any Content you may submit to the Website and to any Interactive Services associated with it.
- 5.2 You must comply with the spirit of the following standards as well as the letter. The standards apply to each part of any Content you may submit as well as to its whole.
- 5.3 Content must:
- (i) be accurate (where they state facts).
  - (ii) be genuinely held (where they state opinions).
  - (iii) comply with applicable law in the UK and in any country from which they are posted.

#### 5.4 Content cannot:

- (i) contain any material which is defamatory of any person;
- (ii) contain any material which is obscene, offensive, hateful or inflammatory;
- (iii) promote sexually explicit material;
- (iv) promote violence;
- (v) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- (vi) infringe any copyright, database right or trade mark of any other person;
- (vii) be likely to deceive any person;
- (viii) breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- (ix) promote any illegal or fraudulent activity;
- (x) be threatening, abusive, defamatory or invade another's privacy, or cause annoyance, inconvenience or needless anxiety or be likely to harass, upset, embarrass, alarm or annoy any other person;
- (xi) be used to impersonate anyone, or misrepresent a person's identity or affiliation with any group, entity or person;
- (xii) be technically harmful in any way, either intentionally or unintentionally, (including, without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data);
- (xiii) constitute, advocate, promote or assist any conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party; or
- (xiv) give the impression that the Website condones or sponsors any of the malfeasance state in the this clause.

## 6. Suspension and termination

- 6.1 We will determine, at our sole discretion whether, by your use of the Website, there has been a breach of this User Agreement. When a breach

of this policy has occurred, we may take such action as we deem appropriate.

6.2 Failure to comply with this User Agreement constitutes a material breach of its terms and may result in our taking all or any of the following actions, with or without a warning to you:

- (i) immediate temporary or permanent withdrawal of your right to use the Website;
- (ii) immediate temporary or permanent removal of any posting or material uploaded by you to the Website;
- (iii) issue of a warning to you;
- (iv) legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach; and
- (v) disclosure of such information to law enforcement authorities as we reasonably feel is necessary.

6.3 We exclude liability for actions taken in response to breaches of this User Agreement. The responses described in this policy are not limited, and we may take any other action that we deem appropriate.

## **7. Licence**

7.1 You may print and download extracts from the Website for your own use on the following basis:

- (i) text, documents, pictures, art photography, logos or graphics cannot be modified in any way;
- (ii) pictures, art photography, logos or graphics on the Website cannot be used separately from the corresponding text; and
- (iii) DWL's copyright and trade mark notices and this permission notice must appear in all copies, whether on the web, stored electronically or in hard copy and cannot be modified in any way.

7.2 The copyright and other intellectual property rights in all material on the Website (including without limitation photographs and graphical images) are owned by DWL or its licensors. Any use of extracts from the Website other than in accordance with clause 7.1 is strictly prohibited.

7.3 If you breach any of the terms of this User Agreement, your permission to use the Website automatically terminates and you must immediately destroy all downloaded or printed extracts from the Website.

- 7.4 No part of the Website may be reproduced or appear on any other website and may not be stored in any public or private electronic retrieval system or service without DWL's prior written permission.
- 7.5 DWL reserves all rights not expressly granted in clause 7.1 to 7.4.
- 7.6 If you submit Content, in whole or in part, in which you hold a copyright, you hereby grant to us a nonexclusive, irrevocable, worldwide, perpetual, unlimited, assignable, sub-licensable, fully paid up and royalty-free licence to copy, prepare derivative works of, improve, distribute, publish, remove, retain, add, and use and commercialise, in any way (whether now known or discovered in the future), anything that you submit to us, without any further consent, notice and/or compensation to you or to any third parties.
- 7.7 Any copyright in any Content will remain with you. The licence set out at clause 7.6 permission is not exclusive, so you can continue to use the Content in any way including allowing others to use it.

## **8. Representations and Warranties**

- 8.1 You hereby represent and warrant that you:
- (i) have full power and authority to enter into this User Agreement;
  - (ii) have the power and authority to provide any Content and sub-licence it to Us if you submit Content for which you are a licensee or sub-licensee;
  - (iii) have the consent of anyone who is identifiable in the Content that you submit or the consent of their parent / guardian if they are under 16 to provide it to the Website; and
  - (iv) any Content you submit complies with our Content Standards as set out at clause 5.
- 8.2 You agree to defend, indemnify and hold DWL its directors, shareholders affiliates and employees harmless from and against any and all losses, costs, claims, liabilities, damages, suits, actions or expenses (including, without limitation, reasonable legal fees) arising from or in connection with any breach of the terms of this User Agreement including but not limited to the warranties set out in this clause 8.
- 8.3 DWL expressly disclaims any and all warranties of any kind or nature to the fullest extent permitted by law, whether express, implied or statutory, relating to the service, including without limitation the implied warranties of title, non-infringement, merchantability and fitness for a particular purpose. In addition, DWL makes no representation or warranty that the

operation of the Website will be uninterrupted or error-free, and DWL will not be liable for the consequences of any interruptions or errors.

## **9. Limitation of Liability and Disclaimer**

9.1 DWL, its directors, shareholders, affiliates and employees hereby exclude all liability and responsibility for any amount or kind of loss or damage that may result to you or a third party (including without limitation, any direct, indirect or consequential loss or damages, or any loss of income, profits, opportunity, investment, goodwill, data, data privacy or loss or damages arising from or connected in any way to the Website and subject matter and data contained thereon, and whether in tort (including without limitation negligence), contract or otherwise), even if it has been advised of the possibility of such damages, in connection with the Website in any way or in connection with the use, inability to use or the results of use of the Website, any websites linked to the Website or the Content and data contained on such websites, including but not limited to loss or damage due to viruses that may infect your computer equipment, software, data or other property on account of your access to, use of, or browsing the Website or your downloading of any material from the Website or any websites linked to the Website.

9.2 Notwithstanding clause 9.1, nothing in this User Agreement limits or excludes the liability of either party:

- (i) for death or personal injury resulting from its own negligence; or
- (ii) for any damage or liability incurred by the other party as a result of fraud or fraudulent misrepresentation by the other.

9.3 The Website, its content, data, access and use and the results of such use are provided 'as is' and 'as available' to the fullest extent permissible pursuant to applicable law. DWL disclaims all warranties express or implied, including, but not limited to, implied warranties of satisfactory quality and fitness for a particular purpose, in relation to the Service, its use and the results of such use. Without limiting the foregoing, DWL specifically disclaims any warranty (i) that the Website will be uninterrupted, accessible or error-free, (ii) that defects will be corrected, (iii) that there are no viruses or other harmful components, (iv) that the security methods employed will be sufficient, or (v) regarding correctness, accuracy, or reliability. The Website relies on the performance of third parties beyond DWL's control.

9.4 While DWL endeavours to ensure that the information on the Website is correct, DWL does not warrant the accuracy, origin or completeness of the material on the Website. DWL may make changes to information on the

Website at any time without notice. The information on the Website may be out of date, and DWL makes no commitment to update such material.

9.5 Links to third party websites on the Website are provided solely for your convenience. If you use these links, you leave the Website. The DWL has not reviewed all of these third party websites and does not control and is not responsible for these websites or their content or availability. DWL therefore does not endorse or make any representations about them, or any content found there, or any results that may be obtained from using them. If you decide to access any of the third party websites linked to the Website, you do so entirely at your own risk.

## **10. Reservation of Rights**

10.1 DWL may add to, change, suspend or discontinue any aspect of the Website or this User Agreement at any time by publishing such modifications on the Website.

10.2 It is the Users obligation and responsibility to periodically review the User Agreement on the Website in order to remain aware of any changes to the User Agreement.

## **11. Term and Termination**

11.1 Subject to terms and conditions of this User Agreement, this User Agreement shall commence on the date on which the User uses the Website or clicks 'Sign Up' and shall continue until terminated by:

- (i) you for any reason, at any time, by giving notice to DWL, which shall be effective on DWL processing such notice; or
- (ii) us for any reason, at any time, with or without notice to you.

## **12. Consequences of Termination**

12.1 On termination of the User Agreement for any reason:

- (i) all accrued rights and liabilities of the parties as at termination shall not be effected; and
- (ii) Clauses 7, 8, 9 and 12 shall survive termination of the User Agreement and continue in full force and effect.

## **13. Trade marks**

13.1 "Digital Window" (Registration Number 2441209), "Affiliate Window" (Registration Number 2361488A), "@ffiliatewindow.com" (Registration Number 2361488B) and "shopwindow" (Registration Number 2447767) are UK registered trade marks of DWL.

13.2 "Digital Window" (Registration Number 005602453), "Affiliate Window" (Registration Number 004337705) and "Direct Serve" (Registration Number 004521531) are European Community registered trade marks of DWL.

#### **14. General**

14.1 DWL may assign or otherwise transfer any of its rights, benefits and duties under this User Agreement. Users may not transfer any of its rights, benefits or duties under this User Agreement.

14.2 This User Agreement constitutes the entire agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. No other representation or statement, whether or not in writing shall form a term of the User Agreement. Nothing in this Condition 14.2 shall limit or exclude any liability for fraud, personal injury or death.

14.3 The failure or delay of DWL to exercise or enforce any right in these terms does not waive the DWL's right to enforce that right.

14.4 If any of these terms are determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any state or country in which these terms are intended to be effective, then to the extent and within the jurisdiction in which that term is illegal, invalid or unenforceable, it shall be severed and deleted from these terms and the remaining terms shall survive and continue to be binding and enforceable.

14.5 Nothing in this User Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

14.6 A person who is not a party to this User Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

14.7 This User Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England.

14.8 The parties irrevocably agree that the courts of England venue shall reside in Greater London and the courts there shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this User Agreement or its subject matter.