

TERMS OF SERVICE AGREEMENT

This Agreement was last revised on April 20th, 2021.

Welcome to adpushup.com, the website and online service of Zelto, Inc. ("Adpushup", "AdPushup", "we," or "us"). This page explains the terms by which you may use our online services, web site, and software provided on or in connection with the service. By accessing or using the Service, including by embedding our code on your site, you signify that you have read, understood, and agree to be bound by this Terms of Service Agreement ("Agreement"), and to the collection and use of your information as set forth in the AdPushup Privacy Policy, whether or not you are a registered user of our Service. AdPushup may, in its sole discretion, modify or update this Agreement from time to time, and so you should review this page periodically. When we change this Agreement, we will update the 'last revised' date at the top of this page. If there are material changes to this Agreement, we will notify you either by posting a notice of such changes prior to implementing the change or by directly sending you a notification. Your continued use of the Service after any such change constitutes your acceptance of the new Terms of Service. If you do not agree to any of these terms or any future Terms of Service, do not use or access (or continue to access) the Service. This Agreement applies to all visitors, users, and others who access the Service ("Users").

PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT CONTAINS A MANDATORY ARBITRATION OF DISPUTES PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

The Terms of Use of Services of www.adpushup.com are as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In these terms the following definitions apply:

AdPushup	Means Zelto, Inc. Address: 4023 Kennett Pike #52878 Wilmington, DE 19807, USA;
Website	Means www.adpushup.com ;
Services	Means all of the services described in clause 3.1 of this Terms of Service Agreement;
User	Means any visitor of the Website who accesses or uses the contents and services offered by the Website;
Publisher	Means a User who has opened an account with the Website;

Code	Means the software code, provided by AdPushup to Publisher, necessary for AdPushup to provide the Services
Publisher Sites	Means the website(s) owned/operated by Publisher and approved by AdPushup for the provision of Services under this Agreement;
Publisher Content	Means any blog entries, bookmarks, postings, messages, opinions, text, files, links, images, photos, video, sounds; works of authorship, feedback, bug reports and other materials available on any of Publisher Sites.
Publisher Data	Means Site, user and third party data related to Publisher Sites It shall also include any profile information, data, and other content or information provided by the Publisher, directly or indirectly, to AdPushup in connection with the Publisher's use of the Service, including without limitation such data, content, and information related to Publisher's business or the users of the Publisher Sites.
AdPushup Data	Mean any Publisher Data that AdPushup aggregate with other data (including our data owned by AdPushup, and third party data relating to Publisher Sites) for any purpose;
Objectionable Activity	Means any content or activity that is <ul style="list-style-type: none"> (i) pornographic, illegal, fraudulent, false, deceptive, misleading, libelous, defamatory or threatening, (ii) racist, hate speech or bullying, (iii) adware, malware, spyware or any other malicious code or drive-by download applications and/or (iv) spam, mail fraud, pyramid schemes, investment opportunities, or advice not permitted by law:
Prohibited Activity	Means engaging in any of the following: <ul style="list-style-type: none"> i. Objectionable Activity; ii. Clicking on Publisher's own Ads or using any means (automated or manual) to inflate impressions and/or clicks artificially or otherwise generate activity not driven by bona fide human intent; iii. offering a user any inducement of any kind to generate clicks or impressions; iv. installing ad code on or within 404/error message pages, pop-over/pop-under windows, downloadable applications, software, chat windows or email; v. obscuring an advertisement or any portion thereof with other content, advertising or navigational elements:

Publisher Agreement Means the agreement between AdPushup and Publisher which Publisher enters when opening a Publisher Account offline.

- 1.2 By using the Website a User agrees and bounds himself or herself to these Terms. If a User does not agree to be bound by these Terms then that User must not use or access the Website and the services offered by the Website.
- 1.3 AdPushup reserves the right to change, modify, alter and / or update these Terms at any time with or without prior notice. Any aspect of the Platform may be changed, updated, supplemented or deleted or discontinued (temporarily or permanently) without notice at the sole discretion of AdPushup. Please check this page frequently and regularly for any change. A User's continued usage of the Application after any change to these Terms will mean that the User has accepted the changes.
- 1.4 The Website pages may contain inadvertent inaccuracies or typographical errors. These will be corrected at the discretion of AdPushup as and when they are found. The information on the different web pages of the Website are updated regularly but inaccuracies may remain or occur when changes occur between updates.

2. TERMS FOR THE USE OF THE WEBSITE

- 2.1 AdPushup grants a limited license to each User to access and make personal use of the contents, materials, services etc of the Website or any third party content in accordance with these Terms and subject to the following conditions:
 - i. The Website's content, and materials shall only be used for information and non-commercial purposes (other than the transactions contemplated in accordance with these Terms) and no other use of the content or information is authorized;
 - ii. A User shall not alter, modify, re-design, reproduce, display, publicly perform, import, distribute, republish, sell, offer for sale, or otherwise use any part of the Website Content in any way, unless expressly permitted to do so by AdPushup.
 - iii. A User shall not make any unauthorized copy of any AdPushup trademark.
- 2.2 AdPushup does not give User the right to collect or use the contents and services contained on the Website for the purposes prohibited by AdPushup. User shall not indulge in any data extraction or data mining activity whatsoever.
- 2.3 AdPushup does not give User the right to create any derivative work of the contents, services, or products of the Website or of any third party content or service available via the Website.

2.4 AdPushup does not convey any interest in or to the information, content, services available via the Website or any other AdPushup material including intellectual property by permitting the user to access the Website.

2.5 ADPUSHUP TRADEMARKS AND INTELLECTUAL PROPERTY

- i. Any and all intellectual property associated with the Website and its contents are the sole property of AdPushup, except as expressly provided in these Terms. The Website Content is protected by copyright and other laws in the United States America as well as other countries.
- ii. All custom graphics, icons, business names and other items that appear on the Website are trademarks, service marks or trade dress (“Marks”) of AdPushup except as otherwise expressly authorized by these Terms.
- iii. No license to use any of these trademarks etc is given or implied. A User shall not copy, download, reproduce, modify, lease, loan, sell, create derivative works from, upload, transmit, or distribute these trademarks in any way without prior permission of AdPushup.

3. SERVICES

3.1 The Services means all of the following services provided by AdPushup to Publisher:

- (i) The tools, technology and services provided by AdPushup to Publisher to track, analyze, engage and optimize its revenues,
- (ii) To operate a real-time, data driven automation platform for advertising, data management and yield optimization, facilitating the integration of third party providers of online advertising and data on one or more of the Publisher Sites, and
- (iii) aggregate and license data to third parties relating to the operation of such platform:

3.2 **ELIGIBILITY:** AdPushup shall provide Services only to those Users who have attained the minimum age of 18 years. **By opening an account with the Website, User represents and warrants that the User is at least 18 years of age, in case the User is an individual.**

4. ACCESSING THE SERVICES PROVIDED BY THE WEBSITE

4.1 In order to access the Services provided by the Website, a User will have to register as a Publisher by opening a Publisher’s Account and providing certain information to AdPushup. The User will be able to create the Account filling out the relevant Sign-Up form.

- 4.2 Publisher may also enter into a Publisher Agreement offline in order to receive the Services.
- 4.3 Publisher may request to add any of its websites, blogs and/or other properties to the Services. AdPushup may, in its discretion, reject or approve the Publisher's request.
- 4.4 AdPushup shall have the right to remove any of the approved Publisher Sites from the Services at any time.
- 4.5 The Publisher agrees to provide any additional information regarding the Publisher's Sites and proposed Publisher Sites that AdPushup may reasonably request.
- 4.6 AdPushup grants Publisher a license to include on the approved Publisher Sites the Code. Publisher shall place the Code, without modification, directly within the HTML code.
- 4.7 Upon AdPushup's written request, Publisher will promptly remove the Code from any of Publisher Sites.
- 4.8 Publisher may not place Code on any website that has not been approved by AdPushup in advance.

5. AUTHORIZATION

- 5.1 Publisher authorize AdPushup to
 - i. serve advertising materials (the "Ads") from advertisers on Publisher Sites and
 - ii. collect, access, index and copy Publisher Content and to collect Publisher Data:
- 5.2 AdPushup may reject or remove a specific Ad from Publisher Sites, modify or suspend the Services and/or delete Publisher's Account at any time for any reason or no reason.
- 5.3 Publisher shall not cover or obscure any Ads via HTML/CSS, scripting or any other means.
- 5.4 Unless AdPushup expressly agree otherwise, AdPushup will have the sole discretion to:
 - i. identify, select and manage relationships with advertisers;
 - ii. establish pricing and other terms and conditions with advertisers; and
 - iii. take all actions relating to the foregoing.

6. USE OF THE SERVICES

- 6.1 Publisher shall be solely responsible for Publisher's direct or indirect (i.e., publishers for whom Publisher is a service provider) use of the Services (e.g., access to and use of the Account and safeguarding usernames and passwords) and the AdPushup Data.
- 6.2 Publisher shall use the Services only in compliance with the terms of this Agreement and all applicable local, state, national, and international laws, rules and regulations.
- 6.3 Use of the Services and the AdPushup Data is subject to all applicable guidelines and policies, including, without limitation, AdPushup's privacy policies available at <https://www.adpushup.com/privacy-policy/>, and Publisher acknowledge and agree that Publisher will be bound by the applicable privacy policy relevant to each user's jurisdiction of residence (collectively, the "Policies").

7. EXCLUSIVITY

- 7.1 Publisher shall not implement any other third-party product or solution, **to optimize or monetize a webpage** on which AdPushup serves an ad impression, unless it is delivered through AdPushup for experimentation or to compare performance via AdPushup. Further, if any such solution is already integrated, the publisher authorizes AdPushup to disable any such third party solutions or products, technically, to implement exclusive monetization of the web page on which AdPushup serves an ad impression. This is done to avoid running multiple ad stacks on a page which can slow down the page or create inefficient auctions, thereby reducing revenue.

8. RESTRICTIONS

- 8.1 Publisher shall not directly or indirectly
 - (i) use the Services or the AdPushup Data except as expressly authorized herein;
 - (ii) use the AdPushup Data for any purpose other than internal analytics purposes,
 - (iii) except as permitted by applicable law, copy, reproduce, modify, distribute, damage, interfere with, disassemble, decompile, reverse engineer or create derivative works of the Services or the AdPushup Data;
 - (iv) breach, disable, tamper with or interfere with the proper working of the Services or the AdPushup Data or develop or use (or attempt) any workaround for any security measure related to the Services or the AdPushup Data; or
 - (v) place any Content on any of Publisher Sites that
 - (a) Infringes or misappropriates a third party's intellectual property or other proprietary rights,
 - (b) Breaches a third party's rights or privacy or publicity or
 - (c) Contains or promotes Objectionable Activity
- 8.2 Publisher is not allowed to indulge in any Prohibited Activity or to click on the ads served on Publisher Sites.

8.3 Publisher is not allowed to, directly or indirectly, encourage the visitors of Publisher Sites to click on the Ads served by AdPushup.

9. LICENSE; PUBLICITY

9.1 The Publisher hereby grants AdPushup an unrestricted, irrevocable, perpetual, fully-paid and royalty-free right to use, create derivative works from and sub-license (including without limitation, the right to grant further sub-licenses) the Publisher Data for the purposes of

- (i) Aggregating and licensing the Publisher Data to third parties in connection with the Services and
- (ii) Providing and improving the Services.

9.2 The Publisher hereby grants AdPushup an unrestricted, irrevocable, perpetual, fully-paid and royalty-free right to use and sub-license (including without limitation, the right to grant further sub-licenses) the Content for the sole purpose of providing and improving the Services.

9.3 Name and Logo:

- i. Publisher expressly grant, and represent and warrant that Publisher has all rights necessary to grant, to AdPushup, a royalty-free, sub-licensable, perpetual, irrevocable, non-exclusive, worldwide license to use, reproduce, modify, publish, and distribute Publisher's name, logo, or any other identifying words or marks used by and/or associated with Publisher to identify Publisher ("Publisher Marks"), in whole or in part, and in any form, media or technology, whether now known or hereafter developed, for use in connection with the Service to identify Publisher as a customer of AdPushup.
- ii. AdPushup may use Publisher's name and logo in presentations and marketing communications. AdPushup may, at its discretion, place terms such as "Ads by AdPushup" together with a hyperlink as part of the Ad on any of Publisher Sites.
- iii. Unless otherwise approved in writing by Publisher, AdPushup will not remove, obscure, or alter any of Publisher Marks.
- iv. AdPushup acknowledges that all goodwill generated through AdPushup's use of any of Publisher's Marks will inure to Publisher's benefit and AdPushup hereby assign and will assign to Publisher any and all goodwill generated through our AdPushup's of any of Publisher's Marks, without any payment or other consideration of any kind to AdPushup.

10. PRIVACY

- 10.1 Each of Publisher (including all publishers for whom Publisher is a service provider) and AdPushup must (i) maintain a privacy policy that (a) provides notice of data collection practices related to the Services and usage of the Publisher Data and AdPushup Data, including without limitation, use of a cookie, web beacon or other tracking mechanisms, and (b) discloses its privacy practices and (ii) operate in accordance with all Policies and all applicable privacy and data security laws and regulations.

11. PAYMENTS

- 11.1 The payment terms mentioned in this agreement supersede any payment related agreements (verbal), between AdPushup and the Publisher, except for a Publisher Agreement executed which links/incorporates this agreement.

11.2 **Publisher Payments:**

- i. Publisher will pay AdPushup the AdPushup Service Fees (a percentage of the publisher revenue) as agreed by the publisher in a separate agreement, of which this document is a part. If no such percentage exists, the publisher is paid revenue as shown on <https://console.adpushup.com> for their account, after deducting any invalid activity.
- ii. AdPushup may offset the AdPushup Service Fees payable by Publisher under this Agreement against AdPushup's payment obligations to Publisher under this Agreement.
- iii. Even if the AdPushup Service Fees are offset as described in the previous section, AdPushup will invoice (or send a statement of financial activity to) Publisher for AdPushup Service Fees in the month after the AdPushup Service Fees are incurred. Publisher will pay the payable invoice amount, if any, to AdPushup, **within 30 days** of the date of invoice.

11.3 **AdPushup Payments:**

- i. For the Services, AdPushup will pay Publisher an amount equal to the Revenue Share Percentage of Ad Revenues attributable to a calendar month. This payment will be made in the month following the calendar month in which the applicable Ads were displayed provided that the amount owed to Publisher in a given month is above the minimum (\$50 a Month) in the Guidelines.
- ii. AdPushup's payments for the Services under this Agreement will be based on AdPushup's accounting which may be filtered to exclude invalid queries, impressions, conversions, or clicks, and any amounts refunded to advertisers.
- iii. AdPushup will pay to Publisher the applicable amounts determined by AdPushup for each Ad impression served on any of Publisher **Sites within forty-five (45)**

days after the end of each month in which the Ad impressions were served, subject to AdPushup's prior receipt of valid payment and tax information.

- iv. Notwithstanding the foregoing, if the amount accrued for the applicable month is less than \$50 (USD) or the equivalent amount in the currency of the Publisher's country, payment will be deferred until the month in which the cumulative balance owed to Publisher exceeds \$50 (USD) or the equivalent amount in the currency of the Publisher's Country.
- v. AdPushup shall have the right to adjust payments for non-payment from advertisers.
- vi. AdPushup shall have no obligation to make payments for any amounts that AdPushup, in its sole discretion, deem to have been generated from any Prohibited Activity
- vii. The parties will use commercially reasonable efforts to collaborate on the identification and elimination of any Prohibited Activity.

11.4 Additional Payment Terms

- i. If AdPushup is obligated to withhold any taxes from its payments to Publisher, AdPushup will notify Publisher of this and will make the payments net of the withheld amounts. AdPushup will provide Publisher with original or certified copies of tax payments (or other sufficient evidence of tax payments) if any of these payments are made by AdPushup.
- ii. All payments due to Publisher will be in the currency and form of payment selected by Publisher from the options provided by AdPushup. Publisher will be responsible for any bank charges assessed by Publisher's bank.
- iii. In addition to other rights and remedies AdPushup and its Affiliates may have, AdPushup may offset any undisputed, past due payment obligations to Publisher that AdPushup or any of its Affiliates may incur under this Agreement against any product or service fees owed to AdPushup or any of its Affiliates by Publisher under this Agreement. AdPushup may also withhold and offset against its payment obligations under this Agreement, or require Publisher to pay to AdPushup within 30 days of any invoice, any amounts AdPushup or any of its Affiliates may have overpaid to Publisher in prior periods.
- iv. AdPushup may change the AdPushup Service Fees and AdPushup Payment charges (as covered under section 11.2 and 11.3 respectively), at its sole discretion with a 30 day notice to the Publisher.

12. CHANGES TO THE SERVICES; CHANGES TO THE AGREEMENT

- 12.1 AdPushup is constantly changing and improving the Services. AdPushup shall have the right to add or remove functionalities or features of the Services at any time, and may suspend or stop a Service altogether.
- 12.2 This Agreement supersedes any online or click-through agreement located at <http://www.adpushup.com> or any other verbal agreements, between AdPushup and the Publisher, except for a Publisher Agreement executed which links/incorporates this agreement.

13. CONFIDENTIALITY

- 13.1 “Confidential Information” of a disclosing party hereunder (“Discloser”) means all of the Discloser’s non-public information, including without limitation, the terms of this Agreement. The AdPushup Data is the Confidential Information of AdPushup. The Publisher Data is the Confidential Information of Publisher.
- 13.2 Confidential Information of Discloser shall not be used by the other party hereto (“Recipient”) for any purpose other than performing Recipient’s obligations or exercising Recipient’s rights as contemplated hereunder, and Recipient will not otherwise at any time disclose the Confidential Information of Discloser to any third party without Discloser’s prior written consent.
- 13.3 Recipient agrees that it shall treat all Confidential Information of Discloser with the same degree of care as it accords to its own Confidential Information, but in no event with less than reasonable care. Notwithstanding the foregoing, Recipient may disclose Confidential Information (i) to the extent required by law or (ii) to its employees, attorneys, accountants, banks and other financing sources and their advisors under an obligation of confidentiality.

14. REPRESENTATION AND WARRANTIES

- 14.1 Each Party represents and warrants to the other party that (i) it holds all rights necessary to perform its obligations hereunder and (ii) all information provided by it to the other party is complete, correct and current.
- 14.2 Publisher further represents and warrants that (a) Publisher owns or is otherwise authorized to use, and is solely responsible for, the Content posted on any of Publisher Sites and (b) Publisher holds, and hereby grants to AdPushup, all rights necessary for AdPushup to perform its obligations hereunder.

15. TERM, TERMINATION, TEMPORARY OR PERMANENT SUSPENSION

- 15.1 **INITIAL TERM:** If not defined otherwise, The initial term of for the provision of Services shall be for 90 days starting from the date of creation of the Publisher Account with the Website (Initial 90 Day Period).
- 15.2 Without limiting other remedies, AdPushup may limit User's activity, temporarily suspend, indefinitely suspend, or refuse to provide the Website services to the User if, within the sole and independent judgment of AdPushup:
- i) User breaches or AdPushup anticipate that User might breach these Terms.
 - ii) AdPushup is unable to verify or authenticate any information provided by User.
 - iii) AdPushup believes that User actions may cause financial loss or legal liability to other Users or to AdPushup.
 - iv) Harm or intimidate another person in any way, including restricting or inhibiting any other user from using the Website;
 - v) Impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with any person, through the use of similar email addresses, nicknames, or creation of false account(s) or any other method or device;
 - vi) Encouraging others to violate this Agreement;
 - vii) Refusing to follow the instructions or directions of AdPushup's staff.

16. INDEMNIFICATION

- 16.1 Each party indemnifies, defend and hold harmless the other party and its agents, affiliates and licensors from any and all losses, claims, damages, liabilities and expenses in relation to any third-party claims or any government or industry investigation, including reasonable costs of investigation and reasonable attorneys' fees ("Claims") brought against the indemnified Party arising out of or related to any breach of this Agreement by indemnifying party or due to Indemnifying Party's negligence, misrepresentation of default.

17. DISCLAIMERS

- 17.1 THE SERVICES AND THE ADPUSHUP DATA ARE PROVIDED "AS-IS" AND AS AVAILABLE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ADPUSHUP EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE TERMS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT.
- 17.2 AdPushup shall not be liable if for any reason the Website is unavailable at any time or for any period. Access to the Website may be suspended temporarily and without notice in case of system failure, maintenance or repair or for any other reasonable cause.

18. LIMITATION ON LIABILITY

- 18.1 EXCEPT FOR CLAIMS RELATING TO SECTION 13, SECTION 16 AND USE OF THE ADPUSHUP DATA, AND SUBJECT TO SECTION 11.4 (i), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR (I) ANY LOST PROFIT OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THIS TERMS OF SERVICE AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (II) ANY DAMAGES ARISING FROM OR RELATED TO THIS TERMS OF SERVICE AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), IN EXCESS OF \$1,000 OR THE EQUIVALENT AMOUNT IN THE CURRENCY OF THE COUNTRY IN WHICH PUBLISHER RESIDES.

19. DUTIES AND OBLIGATIONS OF THE USERS

- 19.1 User undertakes not to use the Website for illegal purposes and the User shall not violate any law, statute, ordinance or regulation relating to the use of the Website and the services provided by AdPushup through the Website.
- 19.2 User shall not indulge in any activity or transaction, through the Website, that could cause AdPushup to violate any applicable law, statute, ordinance or regulation.
- 19.3 User agrees that he/she has read, understood, and agrees to be bound by these terms and the privacy policy statement of the Website.
- 19.4 By registering herself as a Publisher, the User represents and warrants that the User is legally capable of entering into binding contracts.
- 19.5 User agrees to provide accurate personal information while registering with the Website.
- 19.6 Publisher agrees that the Publisher alone shall be fully responsible for protecting the privacy of the username and the password. A User shall ensure that the password is not misused by anyone.
- 19.7 User shall not interfere with or disrupt the Website, or networks connected to, or any activity conducted on the Website in any manner including, but not limited to, use of viruses or other similar computer programming.
- 19.8 User shall not use any robot, spider, scraper or other device or automated means to access the Website, or to monitor the activity, or copy pages and other contents from the Website, except in the operation or use of an internet "search engine", hit counters or similar technology.

- 19.9 User shall not take any action that AdPushup, in its sole discretion, believes imposes an unreasonably large load on AdPushup servers, including without limitation, deep linking into the Website.
- 19.10 User agrees to follow all the applicable laws.

20. THIRD PARTIES LINKS AND SERVICES

- 20.1 The Website may contain links to other sites on World Wide Web and Internet which are not under the control of, or maintained by, AdPushup. AdPushup undertakes no obligation to monitor such sites, and User agree that AdPushup shall not be liable or responsible, in any manner whatsoever, for content or services provided by such sites or any technical or other problems associated with any such third-party Sites, or Links.
- 20.2 AdPushup may use third parties to provide certain services or products accessible through the Website. User agrees that AdPushup shall not be liable to the User in any way for the use of such services by the User. These third parties may have their own terms of use and other policies. User must comply with such terms and Policies as well as these Terms at the time of using such services.

21. VIRUSES

- 21.1 AdPushup makes all reasonable attempts to exclude viruses and other form of harmful computer attacks from these pages, but it cannot ensure this exclusion and no liability is accepted for viruses etc. Please take all appropriate safeguards before using or downloading information from the Website.

22. DMCA / COPYRIGHT INFRINGEMENT NOTICE

- 22.1 Since AdPushup respects artist and content owner rights, it is AdPushup's policy to respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 ("DMCA"). If Publisher believes that its copyrighted work has been copied in a way that constitutes copyright infringement and is accessible via the Service, please notify AdPushup's copyright agent as set forth in the DMCA. For Publisher's complaint to be valid under the DMCA, Publisher must provide the following information in writing:
- i. An electronic or physical signature of a person authorized to act on behalf of the copyright owner; Identification of the copyrighted work that Publisher claims has been infringed;
 - ii. Identification of the material that is claimed to be infringing and where it is located on the Service;
 - iii. Information reasonably sufficient to permit AdPushup to contact Publisher, such as Publisher's address, telephone number, and, e-mail address;
- 22.2 A statement that Publisher has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law; and

22.3 A statement, made under penalty of perjury that the above information is accurate, and that Publisher is the copyright owner or is authorized to act on behalf of the owner.

22.4 The above information must be submitted to the following DMCA Agent:

Attn: DMCA Notice

Zelto, Inc.

Address: 4023 Kennett Pike #52878 Wilmington, DE 19807, USA

Telephone: (+91) 9811017657

Email: legal@adpushup.com

22.5 UNDER LAW, IF PUBLISHER KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, PUBLISHER MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

23. JURISDICTION

IF PUBLISHER IS US AND CANADIAN RESIDENT

23.1 This Agreement, and all disputes relating thereto, shall be governed exclusively by the laws of the [State of California](#), without application of its rules regarding conflicts of laws. If a dispute arises out of (or relates to) this Agreement or the breach thereof, the parties agree to submit said dispute to binding arbitration held in the State of California, and administered in accordance with the then current arbitration guidelines and rules of JAMS, and the parties further agree that any judgment or award rendered by said arbitrators may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each party remains entitled to seek equitable relief in a court of competent jurisdiction located in the State of California.

OR, IF PUBLISHER IS UK AND EU RESIDENT

23.1 NOTHING IN THIS AGREEMENT SHALL LIMIT EITHER PARTY'S LIABILITY IN RESPECT OF (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, (II) FRAUD OR FRAUDULENT MISREPRESENTATION, OR (III) ANY OTHER LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

23.2 This Agreement, and all disputes arising out of or relating to it or its subject matter or formation (including non-contractual disputes), shall be governed exclusively by the laws of England and Wales. If a dispute arises out of (or relates to) this Agreement or its subject matter or formation (including non-contractual disputes), the parties agree to submit said dispute to the non-exclusive jurisdiction of the courts of England and Wales. Notwithstanding the foregoing, each party remains entitled to seek equitable relief and/or to seek to enforce or to protect its intellectual property rights in any court of competent jurisdiction.

24. MISCELLANEOUS

- 24.1 Each party will, in all matters relating to this Agreement, act as an independent contractor.
- 24.2 AdPushup aggregates revenue performance from multiple auctions conducted on different infrastructure as well as a very diverse set of auction partners. The AdPushup dashboard on the website is the only and binding source for publisher net revenue performance, with an accepted discrepancy rate of +/- 5% as accepted in the Industry. For greater transparency, and based on management approval, AdPushup can facilitate third-party audits after financial year-end, once an year, at an additional cost to the Publisher - such audits are conducted within a 3 month period after the end of the financial year and a request for which must be raised 2 months before the end of the financial year OR AdPushup can also provide a statement from AdPushup's auditors on a case to case basis about the overall financial transparency at no additional cost, as long as the Publisher is a customer of AdPushup at the time when AdPushup is conducting an audit for the period in question and the signed contract is in enforce.
- 24.3 Except as expressly contemplated by this Agreement, neither party has, nor will represent that it has, any authority to assume or create any obligation, express or implied, on behalf of the other party, or to represent the other party in any capacity.
- 24.4 If any provision of this Agreement is held to be unenforceable, the parties shall substitute for the affected provision an enforceable provision that best approximates the intent and economic effect of the affected provision.
- 24.5 AdPushup will not be liable for any delay or failure to perform any of our obligations set forth in this Agreement due to causes beyond AdPushup's reasonable control.
- 24.6 Publisher will not assign or transfer any rights or obligations under this Agreement without our prior written consent. Any attempted assignment or delegation in violation of this Agreement will be null, void and of no effect.
- 24.7 This Agreement (which includes our privacy policy and any other rules posted on our website) constitutes the entire agreement between the Parties regarding the use of the Services and/or the AdPushup Data.
- 24.8 AdPushup's failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision.
- 24.9 Except where otherwise indicated, any notice or communication under this Agreement shall be sent via email (i) if to Publisher, to the email address specified by Publisher in the Publisher's Account with the Website, and (ii) if to AdPushup, to legal@adpushup.com.
- 24.10 The provisions under Sections 11 through 23 will survive termination of this Agreement for any reason.