

# Marfeel General Terms Of Service

Last update: September 28, 2015

## I.- OBJECT

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1.1. This document is intended to regulate the conditions under which MARFEEL SOLUTIONS, S.L. (hereby MARFEEL) shall provide its services to its CLIENTS, and the conditions of the license on the platform developed and supported by MARFEEL –hereinafter the PLATFORM- granted to the CLIENT. The PLATFORM adapts and publishes web content to be optimally displayed on the web browser of mobile devices running different operating systems, i.e. without having to install a native application on each device –hereinafter, the MOBILE VERSION-.

1.2. The CLIENT may choose between hiring a SaaS model (hereafter PAYMENT OPTION) or an advertising revenue share model (hereafter FREE OPTION). Selecting either option will determine the application of the corresponding terms of this document.

1.3. In the PAYMENT OPTION, the CLIENT may choose the applicable fee between those available at each time, provided that the number of monthly visits to the MOBILE VERSION is less than the maximum of such fee, and also the payment method (annual / monthly payment). In the PAYMENT OPTION, the CLIENT may choose between advertising or no advertising. If the CLIENT decides to include his advertising, the MOBILE VERSION shall only publish the advertising units contracted by the CLIENT, through their own adserver.

1.4. In the FREE OPTION, the CLIENT shall receive an amount equal to a percentage of the net income obtained by MARFEEL as a result of the ads published in the MOBILE VERSION. Such advertising content will be provided by the collaborators and providers with whom MARFEEL may have agreements at each time (hereinafter the ADEXCHANGES).

1.5. For the purposes of these general terms, net income shall be considered the result of reducing the total income earned by MARFEEL for publishing advertising content in the MOBILE VERSION in the amounts for expenses directly subject to recruitment and provision of the service, such as, included but not limited to, ADEXCHANGES, advertising transfer commissions or expenses.

1.6. This service is aimed at professional CLIENTS, so the current regulations on consumers and users shall not be applicable.

## II.- TERM

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2.1. The initial term of this order form is described in the particular provisions, to be computed as of the date of signature of such document. After the initial period, the order form will be renewed indefinitely until such time that either party decides to terminate it with a prior notice of at least three (3) months. If the CLIENT does not respect the (3) month notice, MARFEEL will keep any remaining payment as a penalty.

2.2. In any event of termination, the Parties will be released from their duties, except those concerning confidentiality, Intellectual Property, jurisdiction, duties of payment associated to the services provided by MARFEEL under this agreement and any other obligations whose enforcement go beyond the termination of the order form.

2.3. If the CLIENT chooses the annual PAYMENT option, the termination of the use of the service or the unilateral termination of the order form shall not entail the return of any amount.

2.4. If the CLIENT decides to break the order form before three (3) months after the signature of this order form, MARFEEL will keep any remaining payment as a penalty of minimum of €3.000 + VAT, as a compensation for the investment incurred.

## III.- PRICE AND PAYMENT

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3.1. In the PAYMENT OPTION, the CLIENT may choose the applicable fee between those available at each time, provided that the number of monthly visits to the MOBILE VERSION is less than the maximum of such fee, and also the payment method (annual / monthly payment).

3.2. In the PAYMENT OPTION, the CLIENT will pay MARFEEL an annual / monthly amount in exchange for the implementation and the maintenance of the MOBILE VERSION. The amount of the annual / monthly payment will depend on the number of monthly visits received by the MOBILE VERSION. MARFEEL shall charge the amounts through standing order from the corresponding bank account indicated by the CLIENT during the ten (10) first days of each month, according to the number of visits received. Each device may have different technical specifications and features.

3.3. In the FREE OPTION, MARFEEL shall pay the CLIENT the percentage stated on the particular provisions of the net income obtained by the publication of the advertising content in the MOBILE VERSION within 60 days.

3.4. MARFEEL will periodically monitor the obtained net revenue, in accordance with the abovementioned provisions, and will pay the CLIENT the corresponding percentage. It is understood that the liquidation shall take place when the CLIENT's compensation reaches SEVENTY EUROS (€70).

3.5. MARFEEL shall issue self-invoices for each amount paid to the CLIENT, which will be provided to the CLIENT for the proper accounting upon request through his contact panel. If the CLIENT wishes to issue his own invoice (only applicable for ENTERPRISE CLIENTS), MARFEEL will pay it within SIXTY (60) days from the date of receipt of the invoice in the MARFEEL's address: Marfeel Solutions SL, Rambla Catalunya 35, pral. 2ª, 08007 Barcelona (Spain).

3.6. MARFEEL will be allowed to suspend or block the access to its services in case of delay or non-fulfillment of the payment by the CLIENT for more than TEN (10) days after the due date, if the PAYMENT OPTION has been chosen. The blockage or suspension of the services will not constitute a breach of this order form for the purposes of its amendment and/or termination and will be previously communicated to the CLIENT with a prior notice of FIVE (5) days.

3.7. If the CLIENT's NET REVENUE is below €1.000 per month (or the equivalent amount in USD) payment will be made through PAYPAL in EUROS to the email account specified by the CLIENT. If the CLIENT's NET REVENUE is above €1.000 per month (or the equivalent amount in USD) payment will be made through WIRE TRANSFER to the bank account specified by the CLIENT and in the currency chosen by him: EUROS or USD. Monthly amounts can not be rolled over to facilitate wire transfer payment.

## IV.- INTELLECTUAL PROPERTY RIGHTS

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### 4.1. License of use

4.1.1. MARFEEL grants the client a non-exclusive license of use on its technologic PLATFORM, for the term of this order form and limited to the necessary rights to set maintain the MOBILE VERSION of the WEBSITE.

4.1.2. In order for the MOBILE VERSION to be accessed by the users of the WEBSITE, the CLIENT must introduce a code provided by MARFEEL. The WEB SITE will automatically redirect all users who access the WEBSITE from compatible mobile devices with MARFEEL's PLATFORM, to the MOBILE VERSION.

4.1.3. The PLATFORM functionalities and technical features available to the CLIENT will vary according to the fee corresponding to his number of visits.

### 4.2. Acknowledgement of rights

4.2.1. MARFEEL is the owner of all the intellectual property rights over the PLATFORM, the trademarks, distinctive signs and contents associated to it, which have not been generated by clients, partners or MARFEEL collaborators.

4.2.2. The CLIENT warrants that it owns all the contents offered through its WEBSITE, which will be hosted in MARFEEL's PLATFORM in order to be published on the MOBILE VERSION. The CLIENT undertakes to hold MARFEEL harmless for any claim, demand or administrative proceeding opened, initiated or addressed against MARFEEL as a result of any infringement of rights caused by the contents published in the WEBSITE by the CLIENT.

4.2.3. In order to allow the processing and publishing of the contents of the WEBSITE in the MOBILE VERSION, the CLIENT specifically agrees such processing and publishing and grants to MARFEEL a non-exclusive and free license of use over all the contents published in the WEBSITE, with no geographic limitation and for the term of this order form. This license will be extended as it is necessary to permit the fulfilment of MARFEEL's duties, including the publishing of the trademark and/or the logo of the CLIENT and MARFEEL's documents as case of use or example of client.

## V.- NON DISCLOSURE

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5.1. Confidential Information means any information that has been disclosed to any of the parties as a result of the performance of the rights and duties described heretofore and is not available for the public domain as, for example, any information related to business, customers, operations, facilities, procedures, methods, transactions, know-how or other aspect of the activity of the Parties.

5.2. The parties agree and undertake to maintain the Confidential Information in the strictest secrecy. No Party shall disclose the Confidential Information for any purpose different to the purposes associated to the present agreement.

## VI.- PRIVACY

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6.1. MARFEEL shall process all the data obtained as a result of the service provided to the CLIENT, following the CLIENT's instructions, as data processor, according to article 12 of the Spanish Data Protection act.

6.2. MARFEEL shall not process or use such data for any purpose different to the purposes described in these conditions; neither shall disclose data to third parties. If personal data are requested by security or police forces to clarify the assignment of a crime, MARFEEL will inform the CLIENT, who will be responsible for delivering the information in a timely manner.

6.3. MARFEEL shall process the personal data with the security measures set forth for basic level files, unless otherwise instructed by the CLIENT.

6.4. After the delivery of the services, MARFEEL will destroy the data or restore them to the CLIENT; at his choice.

6.5. Both parties undertake to hold the other party harmless against any claim that may receive as a result of the infringement of the legislation on Personal Data protection, Intellectual Property or any other applicable law. Therefore, the infringing party must settle any compensation, penalty or fine that may be imposed to the other party for abovementioned reasons.

6.6. The CLIENT will grant MARFEEL a permanent access to the data concerning traffic, visits, unique users and, in general terms, to the main analytic data of the WEBSITE and the MOBILE VERSION for the previous FOUR (4) months, segregated, at least, by origin, browser, operating system and URL.

## VII.- LIABILITY

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7.1. MARFEEL will provide its services with the utmost care, in accordance with industry standards.

7.2. MARFEEL will hire the services associated to its PLATFORM, such as the hosting, to the suppliers that it deems appropriate. Upon request by the CLIENT, MARFEEL will provide the name of the contracted providers.

7.3. MARFEEL will make its best efforts to ensure the availability, integrity and security of the PLATFORM and all the contents hosted on it. Without limiting the foregoing, MARFEEL cannot assume any responsibility for the damages (whether direct or indirect, including without limitation loss of profits, interruption of business or loss of information arising from or related to the use, misuse or inability to use the MOBILE VERSION by the CLIENT or third parties, or because of the publication of the advertising content on the MOBILE VERSION by advertisers, ADEXCHANGES or any other provider, selected by MARFEEL or by the CLIENT. At the request of the CLIENT, MARFEEL will provide the name of the collaborator or provider responsible for the advertising content published through the MOBILE VERSION, so that the CLIENT may require the relevant responsibilities.

7.4. The CLIENT agrees that MARFEEL's maximum liability will be limited to the amount paid by the CLIENT to MARFEEL during the SIX (6) months prior to the date of claim.

7.5. MARFEEL will propose the CLIENT a prototype of the final display of the MOBILE VERSION before placing it into production. The prototype will include spaces designed for the publication of advertisements. The publication of the code provided by MARFEEL to the CLIENT in the WEBSITE shall be equivalent to accepting the prototype by MARFEEL.

## VIII.- FINAL CLAUSES

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8.1. Neither party may assign, in whole or in part, its rights or duties under these Terms without the prior written consent of the other party; provided, however, that either party may assign its rights or duties under these Terms without prior consent in connection with a merger, acquisition or sale of all or substantially all of the party's assets, stock or business.

8.2. The CLIENT shall direct all communications related to these conditions to MARFEEL's address: Marfeel Solutions SL, Rambla Catalunya 35, pral. 2ª, 08007 Barcelona (Spain); TAX ID: ESB65651259.

8.3. MARFEEL shall direct all communications aimed to the CLIENT to the address appointed by the CLIENT in the particular conditions.

8.4. Notifications conducted this way will take effect as of the date of receipt or, alternatively, from the tenth day following shipment.

8.5. The relationship between the parties shall be governed by the provisions set forth in this document, the particular conditions approved by the parties and any other documents, which must be, all of them, jointly and uniquely interpreted.

8.6. After the termination of this order form, for any reason, MARFEEL will delete from its PLATFORM the MOBILE VERSION and the contents from the WEBSITE, owned by the CLIENT. The CLIENT shall delete the link to the MOBILE VERSION.

8.7. MARFEEL reserves the right to insert its logo or distinctive sign in the MOBILE VERSION, with a link to its home page.

8.8. These conditions shall be governed by and construed in accordance with the Spanish laws, excluding any other national, regional or local law.

8.9. Waiving any other jurisdiction, the parties agree to submit any dispute or discrepancy originated by these conditions to the jurisdiction of the Courts of the city of Barcelona.

8.10. This document will be periodically updated by MARFEEL, in order to adapt it to its new products and services and to the price and any other associated conditions. The current applicable version of these general conditions of use can be found at <https://www.marfeel.com/hub/insight/mediaGroup/public/gtos> (/hub/insight/mediaGroup/public/gtos). MARFEEL will notify the CLIENT any change in its general conditions with a prior notice of one (1) month before entering into force. When a unilateral novation of the conditions may constitute a relevant and substantial change regarding the previous conditions, the CLIENT shall be entitled to ask for the termination of the service during the FIFTEEN (15) days after receiving the notification, unless it has contracted the annual plan and the amendment does not involve the payment of an additional amount in the same period.