

# Welcome to dunnhumby media: dunnhumby Sphere Platform Terms

## 1. Introduction

- 1.1. These terms and conditions (“**Platform Terms**”) set out the terms on which we grant access to you to use dunnhumby Sphere and its content (our “**Platform**”). They do not apply to Bookings made through our Platform, which are subject to our separate [Media Booking Terms](#).
- 1.2. dunnhumby Sphere is owned and operated by dunnhumby Limited of 184 Shepherds Bush Road, London, England, W6 7NL, registered under company number 02388853 (“**we**”, “**us**” or “**our**”).

## 2. Acceptance of our Platform Terms

- 2.1. Please read our Platform Terms carefully. If you accept our Platform Terms and agree to comply with them, please click the relevant tick box and continue with the log-in process.
- 2.2. By clicking the tick box accepting our Platform Terms you:
  - 2.2.1. agree to comply with them; and
  - 2.2.2. represent and warrant that you have the requisite authority to accept them on behalf of the organisation on whose behalf you act.
- 2.3. If you do not agree to our Platform Terms, or have any questions about them, please do not click the tick box or attempt to access or use the Platform.
- 2.4. Once accepted, these Platform Terms form a separate contract between us and the organisation on whose behalf you act.

## 3. Privacy & Cookies

- 3.1. Please read the Platform **Privacy Notice** and **Cookie Notice** carefully **before** you use the Platform to understand how we will use your personal data and how we use cookies on the Platform.
- 3.2. If you do not want us to use your personal data as described in the Platform Privacy Notice, please do not click the tick boxes or attempt to access or use the Platform. If you continue to access or use the Platform after the log-in screen, you will be deemed to have acknowledged that we will use your personal data in line with the Platform Privacy Notice.
- 3.3. Please confirm your cookie preferences by ticking the relevant boxes before completing the log-in process by clicking ‘Confirm and Continue’.

## 4. Your Account username and password

- 4.1. We will issue you with a unique username and password to enable you to log-in to your Account on the Platform. Your Account log-in details are confidential. You must not show them to anybody or share them with anybody else, other than sharing your username with us where necessary to deal with an issue with the Platform.
- 4.2. We will send you and email with a link to redefine your password and a link to access your account in our Platform. You will be required to change your password through the reminders issued to you via the Platform.
- 4.3. If you know or suspect that anyone other than you knows your Account password, or no longer require use of the relevant Account you must promptly notify us at [Service.Desk@dunnhumby.com](mailto:Service.Desk@dunnhumby.com).

## 5. Closing your Account

- 5.1. You can stop using the Platform at any time. You may close your Account at any time by contacting your Nominated Representative.
- 5.2. If you close your account in accordance with Section 9.1:
  - 5.2.1. any Bookings in your Account at that time must be cancelled in accordance with the Media Booking Terms and fees may apply; and
  - 5.2.2. you must pay all fees and other outstanding amounts payable under the Media Booking Terms for the relevant Bookings.
- 5.3. We may suspend or terminate your access to the Platform or any part of it:
  - 5.3.1. at any time without notice if there is a security issue or if, in our reasonable opinion, you have failed to comply with any of the provisions of our Platform Terms or if you are in breach of our Media Booking Terms; or
  - 5.3.2. at any time on reasonable notice for any reason.
- 5.4. Upon termination by us in accordance with Section 9.3:
  - 5.4.1. any Bookings in your Account will automatically be cancelled unless otherwise agreed between you and us in writing; and
  - 5.4.2. you must pay all fees and other outstanding amounts payable under the Media Booking Terms for the relevant Bookings.
- 5.5. If you do not use your Account for a consecutive period of 6 months your log-in details will be deactivated and should you wish to renew your access you should contact [Service.Desk@dunnhumby.com](mailto:Service.Desk@dunnhumby.com).

5.6. All clauses of these Platform Terms that are intended either expressly or by implication to survive expiry and termination of your Account shall remain in full force and effect.

## **6. Your use of the Platform**

6.1. You **must**:

- 6.1.1. use the Platform in accordance with these Platform Terms, our training and user documentation and any reasonable instructions which we give to you from time to time;
- 6.1.2. use the Platform in accordance with applicable laws;
- 6.1.3. only access and use the Platform through your designated Account;
- 6.1.4. if you are no longer authorised to use the Platform on behalf of the organisation on whose behalf you originally acted in opening your Account, you must immediately cease access and notify us in writing to cancel your Account credentials and disable your access to the Platform;
- 6.1.5. ensure that any content you provide to us or upload or link to the Platform do not contain any harmful code such as spyware, malware or viruses; and
- 6.1.6. take reasonable steps to maintain the security of your Account and prevent unauthorized access to and use of your Account including keeping passwords, private keys and any other information which can be used to access the Account confidential.

6.2. You **must not** use the Platform in any way which in our opinion:

- 6.2.1. may be unlawful, deceptive, fraudulent, immoral, offensive, sexually explicit, discriminatory, defamatory or otherwise harmful to individuals;
- 6.2.2. may infringe our rights, those of our licensors, or the rights of any third party including individual's privacy or data protection rights, any Intellectual Property Rights and rights in confidential information;
- 6.2.3. is in breach of any contractual terms;
- 6.2.4. may threaten (and shall take reasonable precautions to prevent third parties from exploiting your use of the Platform to threaten) the security, integrity or availability of any network, computer or communications system or software application, including our systems, our Platform and those of any third party;
- 6.2.5. may be harmful to us, our Retailers, other advertisers who use the Platform, our suppliers or sub-contractors or any third party; or
- 6.2.6. may result in a liability for us or a Retailer or a claim against us or a Retailer.

6.3. You **must not** carry out any of the following activities which may affect the Platform:

- 6.3.1. generate or attempt to generate automated, fraudulent or otherwise false or invalid impressions, inquiries, clicks or conversions;
- 6.3.2. submit invalid queries, invalid impressions or invalid clicks on advertisements, links and other content whether manually or using automated means (such as bots);
- 6.3.3. introduce any virus or other malware or harmful code to the Platform;
- 6.3.4. use or attempt to use any automated means to access or use our Platform, or to scrape, extract, collect or query information on the Platform or available through it;
- 6.3.5. attempt to probe, scan, or test the vulnerability of the Platform or to breach any security or authentication measures used by the Platform;
- 6.3.6. copy, modify, distribute, sell or lease any part of the Platform, except as permitted by these Platform Terms;
- 6.3.7. reverse engineer, decompile, disassemble or attempt to extract the source code of our Platform, unless laws prohibit those restrictions or you have our prior written permission; and/or
- 6.3.8. remove, obscure or alter any of our or our licensors' copyright notices or other proprietary rights notices which are displayed on the Platform.

6.4. If you become aware of any breach of our Platform Terms, please report this immediately to your Nominated Representative or email: [legal@dunnhumby.com](mailto:legal@dunnhumby.com).

## **7. Your rights to use information and reports available through the Platform**

7.1. You may use and share with your affiliates and suppliers any information or reports we make available to you through our Platform that do not relate to a Booking, solely for your internal advertising, media planning, brand, and media management purposes. In addition, you may share such information and reports with the Retailer for the purposes of managing your relationship (if any) with the Retailer. You may copy parts of such reports provided you only do so for such purposes, cite us as your source and include the following notice alongside the relevant extract "© dunnhumby Ltd [year]/Confidential."

7.2. We reserve all other rights, including the right to amend the information and reports available to you.

7.3. You must not remove, amend, or obscure any copyright or other proprietary notice displayed on any information or report we make available.

- 7.4. Your rights set out in this clause 7 above are granted on a non-exclusive, non-transferable basis, and are subject to your compliance with these Platform Terms.
- 7.5. If you are a media agency you are entitled to benefit from the rights set out in this clause 7 and use the information and reports for the purpose of your advertising, media planning, brand and media management services for your clients, provided you do not use the information or reports for the direct or indirect benefit of a competitor of ours or of the Retailer, and comply with the conditions set out in this clause 7.

## **8. Intellectual Property Rights**

- 8.1. All Intellectual Property Rights in the Platform are our property, or that of our licensors.
- 8.2. Subject to these Platform Terms, we and our licensors reserve all right, title and interest in and to the Intellectual Property Rights in the Platform.
- 8.3. Subject to these Platform Terms, we grant you a non-exclusive, non-transferable, revocable licence to use the Platform solely for your internal business purposes, and, if you are a media agency, for the internal business purposes of your clients.
- 8.4. Your licence to use the Platform shall terminate if we close your Account in accordance with these Platform Terms.
- 8.5. Our licensors shall have no liability to you in respect of the Intellectual Property Rights in the Platform.
- 8.6. You acknowledge and agree that any unauthorised use of our or our licensors Intellectual Property Rights is a violation of these Platform Terms and will infringe ours or our licensors' Intellectual Property Rights and is strictly prohibited.

## **9. Confidential Information**

- 9.1. Subject to clause 7 and this clause 9, neither party shall share any information of a confidential nature it may receive from the other party with any other person. Each party will use commercially reasonable endeavours to prevent the unauthorised disclosure of the other party's confidential information.
- 9.2. Each party may share the other's confidential information:
  - 9.2.1. with the Retailer for its or the Retailer's internal business purposes;
  - 9.2.2. internally with its officers, directors, employees and individual contractors who reasonably need to know it for the purpose of providing or using the Platform, or otherwise for purposes permitted by clause 7; and
  - 9.2.3. with its legal and insurance advisors who reasonably need to know it for their role.
- 9.3. We may share your confidential information:
  - 9.3.1. as reasonably necessary to provide our Platform and any of its services to you, including with our relevant suppliers and sub-contractors;
  - 9.3.2. if you request us to provide a third party (e.g. a media agency) with access to your Account, you agree that any information relating to your use of the Platform may be visible and shared with such third party;
  - 9.3.3. where you are a third party (e.g. a media agency) who is granted access to the primary Account, you agree that any information relating to your use of the Platform may be visible and shared with the primary account holder; and
  - 9.3.4. as we consider reasonably necessary to develop our media business for our clients in general.
- 9.4. You acknowledge and agree that all information and reports you can view on or download from the Platform or otherwise receive from us in connection with your use of the Platform (including any information you input) other than Booking Details, is our confidential information.
- 9.5. Each party will, if faced with a governmental or judicial request to disclose confidential information of the other party, and if legally allowed, promptly notify the other party before complying with the request.
- 9.6. Each recipient of confidential information permitted under this clause 9 must be subject to reasonable contractual confidentiality obligations, or an enforceable legal duty of confidentiality.
- 9.7. We may use and share any feedback you give to us concerning the Platform for any purpose, at our sole discretion.

## **10. Disclaimer**

- 10.1. We give no warranties or undertakings regarding our Platform save those expressly set out in these Platform Terms. To the greatest extent permitted by Applicable Law, you and we both agree to exclude all other terms you seek to impose or incorporate, or which may be otherwise implied, whether from course of dealing or otherwise, including any warranty of performance, merchantability, fitness for a particular purpose, title and non-infringement. If such terms cannot be lawfully excluded, you agree to waive your rights in respect of them.
- 10.2. We provide the Platform "as is", "with all faults" and "as available". We do not warrant that your access and use of the Platform will be uninterrupted, error-free, completely secure, or free from viruses and harmful code. Any insights data or other information we may make available to you via the Platform is provided 'as is' and an estimate only. We do not guarantee any future sales, revenue or other outcomes will result from your use of the Platform, or the accuracy of its contents and reports. You are solely responsible for any commercial or other decision you make in reliance on our Platform any data or other information we may make available to you via the Platform. Any subsequent acts you take are done at your own risk.
- 10.3. All rights and obligations in respect of your use of the Platform shall apply as between you and us, and our licensors make no warranty to you of any kind and shall have no liability to you in respect of your use of the Platform.

## **11. Liability & indemnity**

11.1. Nothing in these Platform Terms will limit:

- 11.1.1. either party's liability arising out of or in connection with a Booking, which is limited and excluded in accordance with the Media Booking Terms;
- 11.1.2. either party's liability which cannot be limited under Applicable Law; or
- 11.1.3. a party's liability under its indemnity obligations.

11.2. Subject to clause 11.1, neither party shall be liable:

- 11.2.1. in contract, tort (including negligence) or under any other legal theory of recovery, for any indirect or consequential losses, for any loss of revenue, profit, contracts, business, data, goodwill, opportunity, reputation, or failure to realise anticipated benefits or savings; or
- 11.2.2. to the extent losses are caused by the other party's delay, negligence, or breach of a Booking.

11.3. Subject to clause 11.1 and 11.2, we shall not be liable for any services made available to you on a "beta", "test" or "proof-of-concept" basis. The Platform is made available to you at no charge, on "as is" basis and subject to clauses 11.1 and 11.2, we accept no liability arising out of or in connection with your use of the Platform and these Platform Terms or any breach or non-performance of it (including due to negligence). If this exclusion is not enforceable for any reason, our total liability under or in connection with your use of the Platform and these Platform Terms or any breach or non-performance of it (including due to negligence) shall not exceed the amount of £100.

11.4. Subject to clause 11.5, we will defend, indemnify and hold you harmless from all third-party claims and all related damages and other losses you suffer caused by any allegation that your use of the Platform infringes third party IPRs, save to the extent caused by your delay, negligence or breach of these Platform Terms.

11.5. The indemnified party must promptly notify the other party of any such claim and make no admission of liability or settle the claim, must give the other party sole control of the defence and all related settlement negotiations, and co-operate with the other party in such defence and negotiations. The indemnified party must also mitigate its losses in each case.

## **12. Other Platform content, communications, training and support**

12.1. Where the Platform contains links to other platforms and sites provided by third parties, these links are provided for your information only and we are not responsible or liable for these platforms or sites.

12.2. We will send you communications to let you know about maintenance and updates to the Platform, provide updates about your Account and provide you with user support. We'll send such communications via the Platform or to the email address we hold in our systems for you. You cannot opt-out of these communications.

12.3. If you have training or support needs relating to the Platform please contact your Nominated Representative or email us at [Service.Desk@dunnhumby.com](mailto:Service.Desk@dunnhumby.com).

## **13. Changes to our Platform and Platform Terms**

13.1. We may update, change or deprecate the Platform and any services available through it from time to time. We will try to give you reasonable notice of any major changes either via the Platform or by email and will work with you to manage any Bookings which are impacted.

13.2. We can update our Platform Terms at any time. The current version of our Platform Terms will be the version available through the Platform and the current version replaces all previous versions.

## **14. Miscellaneous**

14.1. To be valid any notices issued in connection with your use of the Platform must be in writing and delivered through the relevant functionality of our Platform or by email to [legal@dunnhumby.com](mailto:legal@dunnhumby.com) (for notices to us) or to your most current contact email address provided to our Nominated Representative for you from time to time (for notices to you). Notices may also be delivered by hand with signature on receipt or delivered by first class post (or equivalent), in each case to the address of the party's registered or principal office. Notices sent through our Platform or by email are served when transmitted provided no error message is received. (e.g. for an email, a "bounce-back"). Notices sent by hand are served when delivered and if sent by first class post (or equivalent) are served two business days after posting. Each party may change its preferred addresses for email, post, or hand-delivered notices by giving the other party notice of the change in any manner permitted under these Terms.

14.2. A waiver must be in writing and signed by the party granting the waiver to be effective. Neither party will be treated as having waived any right or remedy under these Platform Terms or under the law by not exercising or by delaying exercising that right or remedy. If a party only partly exercises a right or remedy, this shall not prevent or restrict that party from further exercise of that right or remedy.

14.3. In entering into the contract formed under clause 2.4, each party agrees that it does not rely on and shall have no remedy concerning any statement, representation or other understanding other than those expressly set out in these Platform Terms.

14.4. You may not assign, sub-contract, place into trust or otherwise transfer any rights or obligations under these Platform Terms without our prior written consent.

14.5. If any term or part of a term in these Platform Terms is unenforceable for any reason, that shall not affect the continuing enforceability of the other terms.

14.6. These Platform Terms and any contractual or non-contractual disputes and claims relating to them shall be governed by the laws of England and Wales and are subject to the exclusive jurisdiction of the English courts.

## 15. Interpretation

15.1. In these Platform Terms:

**Account** means the account which we create for you to access and use the Platform.

**Authorised User** means individual to whom we grant access to the Platform from time to time and who has accepted these Platform Terms as described in clause 3.

**Booking** means a booking made by you using the functionality available on the Platform and accepted by us, as more particularly described in the Media Booking Terms.

**Booking Details** means the relevant details required by our booking dialogue pages in our Platform, as more particularly described in the Media Booking Terms.

**Intellectual Property Rights** means all intellectual property rights arising anywhere in the world, whether registered or unregistered, and all rights associated with them such as the right to apply for their registration and bring proceedings for their infringement, including all copyrights; patents, rights in inventions and rights in know-how; trademarks, rights in business and service names and marks, rights in goodwill, domain names and to sue for passing off; design rights; database rights.

**Media Booking Terms** means the terms available [here](#).

**Platform** bears the meaning set out in clause 1, and includes all its services from time to time, and all documentation, training materials, reports, and other information we make available to you through it or in relation to it.

**Retailer** means the retailer whose media inventory and data is used to enable the services made available through our Platform.

**Nominated Representative** means the individual nominated as our primary media point of contact for you from time to time.

"**you**" or "**your**" means (as the context requires), the relevant Authorised User or the legal entity on whose behalf they act.

15.2. Use of the words "**including**" or "**include**" is illustrative and not exhaustive.

15.3. If there is any conflict between our Platform Terms and the Media Booking Terms, the Media Booking Terms shall take precedence to the extent of the conflict.