

BEACON USER (PUBLISHER) TERMS

IMPORTANT NOTICE: *Please take time to read the provisions below carefully, because they are legally binding. Provisions which are **italicized** are particularly important: these include the restrictions in clause 5, clause 6 (which are important to protect our ownership of intellectual property rights in Beacon) and the limitations of liability at clause 10.*

1. USER TERMS

1.1 These terms (the **User Terms**) form a binding legal agreement between you and Beacon Publishing Ltd, Belfast, Co Antrim, Northern Ireland company registration number NI618038 (**we, us, our**), and relate to how you may create and publish ebooks using the browser based Beacon software application and any other software applications created by us (**App**) and our website at www.beacon.by (the **Site**), and together referred to as **Beacon**. By accepting these User Terms you agree to be bound by their effect.

2. ACCEPTING THE USER TERMS

In order to use Beacon, you must first agree to these User Terms. You may not use Beacon if you do not accept the User Terms. You can accept the User Terms by:

- 2.1 clicking to accept or agree to the User Terms, where this option is made available to you by us in the user interface provided to you; or
- 2.2 by actually using Beacon. In this case, you understand and agree that we will treat your use of Beacon as acceptance of the User Terms from that point onwards.

3. USE OF BEACON BY YOU

- 3.1 In consideration of the fulfilment by you of the obligations imposed on you by these User Terms, we grant you a non-exclusive, non-assignable, non-transferable non-sublicensable licence for the duration of the agreement created by these User Terms to use Beacon.
- 3.2 You agree not to access (or attempt to access) any part of Beacon by any means other than through the interface that is provided by us. You specifically agree not to access (or attempt to access) any part of Beacon through any automated means, including use of scripts, robots, spiders, scrapers or web crawlers. You agree that you will not (a) take any action that imposes, or may impose (in each case in our sole discretion) an unreasonable or disproportionately large load on our infrastructure; (b) copy, duplicate, reproduce, rent, lease, loan, sell, trade, resell, modify, create derivative works distribute or publicly display any part of Beacon without prior written consent from us and any third party determined by us as appropriate; (c) interfere or attempt to interfere with the proper working of Beacon or any activities conducted via Beacon (d) bypass any measures we may use to prevent or restrict access to Beacon; and (e) attempt to reverse engineer, decompile or otherwise seek to obtain access to the source code in Beacon.
- 3.3 You agree that you will not engage in any activity that interferes with or disrupts Beacon, or the servers and networks which are connected to Beacon.

4. FEES AND ACCOUNT SECURITY

- 4.1 You will pay us the fee for the use of Beacon in accordance with the pricing options detailed here <http://www.beacon.by/pricing> Any fees notified by us will be automatically charged to the credit card associated with your account or will be paid via direct debit depending on what

type of subscription you have chosen. All transactions will be processed via third party providers. These third party providers will have their own security policies and terms and conditions. You should read these before using any such third party software.

- 4.2 We may increase the fee on giving you not less than 30 days written notice.
- 4.3 Failure to pay the fee may result in your account being suspended.
- 4.4 You grant us the right to audit your use of Beacon, so as to ensure compliance by you with these User Terms.
- 4.5 You represent and warrant to us that any and all information provided by you is true, accurate and complete. You undertake to notify us promptly of any changes to such information. You agree not to impersonate any other person or entity or to use a false name or a name that you are not authorised to use. We reserve the right to decline any application from you to register as a user of Beacon in our sole discretion and/or to suspend your use of Beacon where we in our sole discretion believe that you are in breach of any provision of these User Terms.
- 4.6 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access Beacon. Accordingly, you agree that you will be solely responsible to us for all activities that occur under your account, as determined, noted, or recorded by us. Such determination, notation, and record shall be at our sole discretion, and shall serve as conclusive proof of the facts stated therein and to which they attest.
- 4.7 If you become aware of any unauthorized use of your password or of your account, you agree to notify us immediately at hello@beacon.by.
- 4.8 Beacon reserve the rights to reclaim usernames which may be misleading, inactive, in violation of these User Terms or for the behalf of businesses/individuals who hold the goodwill or trademark to those usernames.

5. USER CONTENT

- 5.1 *You agree that you are solely responsible for (and that we have no responsibility to you or to any third party for) any content that you create, upload, transmit and/or display while using Beacon (any and all such content **User Content**) and for the consequences of your actions (including any loss or damage which we may suffer) by doing so.*
- 5.2 *By submitting, posting or displaying User Content you give us a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to facilitate publication of User Content through Beacon.*
- 5.3 *You acknowledge and agree that, in performing the required technical steps to provide Beacon to other users, we may (a) transmit or distribute User Content over various public networks and in various media; and (b) make such changes to User Content as are necessary to conform and adapt that User Content to the technical requirements of connecting networks, devices, services or media.*
- 5.4 *You acknowledge and agree that we have the exclusive right to un-publish, take offline, delete, archive, prohibit, ban, or otherwise remove User Content that, in our sole opinion, does not relate or bears no relation, or, in any manner or form, is improper or inappropriate to Beacon (including any User Content which, in our sole discretion, places or may place you in breach of the warranties given by you at clause 5.5).*

- 5.5 *By uploading any User Content you represent and warrant that:*
- 5.5.1 *you have all the rights, power and authority necessary to grant the license at clause 5.2;*
 - 5.5.2 *you have the lawful right to upload, reproduce and distribute such User Content;*
 - 5.5.3 *the uploading, downloading, posting, emailing or transmission by any other means of the User Content will not constitute or encourage a criminal offence, violate the rights (including without limitation intellectual property rights) of any party or otherwise create liability or violate any local, state, national or international law; and*
 - 5.5.4 *the User Content posted by you will not be unlawful, harmful, threatening, abusive, vulgar, harassing, defamatory, obscene, pornographic, indecent, inflammatory, libelous, tortious, hateful, or racially, ethnically or otherwise objectionable, or invasive of another's rights including rights of celebrity, privacy and intellectual property. We reserve the right, but have no obligation, to remove any such User Content as described in this clause 5.5.*
- 5.6 *You shall indemnify us, without limitation and upon demand, against any cost, damages or expenses (including reasonable legal expenses) that may be incurred by us either (a) as a result of any breach by you of the warranties detailed in clause 5.5, and/or (b) in respect of any claim or action that the use of any User Content infringes intellectual property rights or is otherwise unlawful or objectionable.*

6. INTELLECTUAL PROPERTY

- 6.1 *Beacon contains a range of information (including templates, fonts, text, data files, video, audio and graphics and other content) (**Beacon Content**) which is protected by copyrights, trademarks and other forms of intellectual property rights recognized and protected by national and international laws. You agree to comply with all such laws as are applicable to you.*
- 6.2 *Except as permitted by the User Terms, you may not copy, or make any use of any part of the Beacon Content or use any such Intellectual Property Rights for any purposes. In particular you may not modify, rent, lease, loan, sell, distribute or create derivative works based on the Beacon Content (either in whole or in part) unless you have been specifically permitted to do so by the User Terms or by the Beacon interface.*
- 6.3 *You may not use any of the fonts, trademarks, trade names, service marks, copyrights, logos, domain names and other distinctive brand features belonging to us or any third party unless you have valid written permission to do so. You agree not to alter, remove or obscure any proprietary rights notices (including copyright and trade mark notices) which may appear in or be held within Beacon.*
- 6.4 *In the User Terms, **Intellectual Property Rights** shall mean all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, database rights, patents, patent applications, patent rights, rights in designs, trademarks, trademark applications, trademark registrations, trademark rights, trade secrets, fonts, typefaces and all other intellectual property and proprietary information rights as may exist now or hereafter come into existence, all modifications, continuations, renewals and extensions of the foregoing, and all claims, actions, causes of action, damages, costs, expenses, profits, penalties, recoveries and remedies relating to any past, present or future infringement of any of the foregoing, arising under the laws of any country, state or jurisdiction in the world.*

6.5 *You further acknowledge that Beacon may contain information which is designated confidential by us and that you shall not disclose such information without our prior written consent.*

7. PRIVACY

7.1 Your use of Beacon, including any registration process, may involve your disclosure to us of personal data (which term shall include sensitive personal data) relating to data subjects (**personal data, sensitive personal data** and **data subjects** each as defined by the Data Protection Act 1988). In the event that you do so disclose such personal data you:

7.1.1 warrant and represent to us that you have secured all consents and permissions, and have taken all actions necessary, as may be required by applicable law for the purposes of disclosure to us and subsequent use by us of any such data relating to third parties in the provision of Beacon in accordance with our privacy policy: ***http://www.beacon.by/assets/docs/Privacy_Policy.pdf*** and

7.1.2 in relation to any personal data relating to you, you consent to the use of such personal data in accordance with our ***http://www.beacon.by/assets/docs/Privacy_Policy.pdf***

8. PUBLICITY

8.1 You agree to our use of User Content for promotional and advertising purposes. If you do not wish to be featured in our promotional material please notify us immediately at hello@beacon.by.

8.2 Both of you and us acknowledge that publicity by us using any User Content does not constitute any endorsement of User Content and, in accordance with Clause 5, you remain solely responsible for the User Content.

9. TERMINATION

9.1 We may at any time, terminate our legal agreement with you and the supply to you of Beacon if:

9.1.1 you have materially breached any provision of the User Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the User Terms) and, where such breach is capable of remedy, we determine that you have not so remedied within fourteen days of notification; or

9.1.2 we are required to do so by law (for example, where the provision of Beacon to you is, or becomes, unlawful); or

9.1.3 you cease to trade; or become insolvent or unable to pay your debts within the meaning of the insolvency legislation applicable to you; or a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole part of your business or assets, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court; or the ability of your creditors to take any action to enforce your debts is suspended, restricted or prevented or some or all of your creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or any process is instituted which could lead to you being dissolved and your assets being distributed to your creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction); or

9.1.4 the provision of Beacon to you by us is, in our opinion, no longer commercially viable.

- 9.2 When these User Terms come to an end:
- 9.2.1 the licence granted at clause 3.1 of these User Terms terminates; and
 - 9.2.2 all of the legal rights, obligations and liabilities that you and we have benefited from, been subject to (or which have accrued over time whilst the User Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of Clauses 5, 6, 7, 8, 9, 10, 11 and 12 shall survive termination of these User Terms.
- 9.3 We reserve the exclusive right and prerogative to retain, maintain, archive, protect, use, or store any and all data or information, without regard as to time or duration, as it may deem reasonable or necessary in the pursuit of our business or interests, or in protecting such business or interests, notwithstanding the termination or cessation of your relationship with us.

10. LIMITATION OF LIABILITY

- 10.1 *Nothing in these User Terms, including this clause 10, shall exclude or limit any warranty or liability which may not be lawfully excluded or limited by applicable law, including liability for fraud or for death or personal injury caused by our negligence.*
- 10.2 *You acknowledge and agree that we have no liability to you for any use, misuse or loss of User Content by third parties, and/or any act or omission of any user.*
- 10.3 *Beacon is NOT a back up service. In particular, you acknowledge and agree that no refund will be due to you from us, and you further acknowledge and agree that since we have no control over the content and/or quality of User Content this limitation of our liability to you is reasonable.*
- 10.4 *Beacon may contain third party cookies to enhance your user experience. You acknowledge and agree that we are not liable in relation to such third party cookies and that they are the sole responsibility of the third party cookie provider. Such third party cookies will be governed by their own terms and privacy policies, so you should read these before giving your consent to enable these third party cookies.*
- 10.5 *There are no conditions, warranties, representations or other terms, express or implied, that are binding on us except as specifically stated in these User Terms (including implied warranties and conditions of merchantability, fitness for a particular purpose and non-infringement). Any condition, warranty, representation or other term concerning the supply of Beacon which might otherwise be implied into or incorporated in these User Terms, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.*
- 10.6 *You expressly understand and so agree that your use of Beacon is at your sole risk and that Beacon is provided "As Is" and "As Available."*
- 10.7 *In particular, we, our subsidiaries and affiliates, and our licensors, do not represent or warrant to you that:*
- 10.7.1 *your use of Beacon (including its use in conjunction with any other software) will meet your requirements, that your use of Beacon will be uninterrupted, timely, secure or free from error or that defects in the operation or functionality of Beacon provided to you will be corrected; and*
 - 10.7.2 *any information obtained by you as a result of your use of Beacon will be accurate or reliable;*

- 10.7.3 *that any content (including User Content and Beacon Content) will be accessible at any particular time; and*
- 10.7.4 *that defects in the operation or functionality of the Beacon will be corrected, rectified, or remedied.*
- 10.8 *Any material (including User Content and Beacon Content) downloaded or otherwise obtained or accessed through the use of Beacon is done at your own discretion and risk, and that you will be solely responsible for any damage, loss, or prejudice to your computer system or other device or loss of data that results from the download or access of any such material.*
- 10.9 *In order for you to make full use of Beacon it may be necessary for you to use particular computer equipment or to download or install certain pieces of software. If you are unable to access all or part of Beacon because you do not have access to any necessary software or equipment, this shall not constitute a breach of these User Terms by us and we shall not be liable for any loss, damage or expense which may result from your inability to access Beacon.*
- 10.10 *No advice or information, whether oral or written, obtained by you from us or any of our subsidiaries, affiliates, officials, employees, or personnel, or through or from Beacon shall create any warranty not expressly stated in these User Terms. We shall not be under any liability whatsoever in respect of any inaccuracies or omissions in Beacon. All such liability is excluded by us to the fullest extent permitted by law.*
- 10.11 *You expressly understand and agree that we and our licensors shall not be liable to you for:*
- 10.11.1 *any indirect, special, incidental or consequential loss or damage which may arise in respect of Beacon and/or its use or non-availability;*
- 10.11.2 *loss of profit, business revenue, goodwill and anticipated savings;*
- 10.11.3 *any trading or other losses which you may incur as a result of use of or reliance upon any content;*
- 10.11.4 *the deletion of, corruption of, or failure to store, any content (including User Content and Beacon Content) and other communications data maintained or transmitted by or through your use of Beacon; or*
- 10.11.5 *any effect which use of Beacon may have on any software you use.*
- 10.12 *Subject to the clauses above, the aggregate liability of us in respect of any loss or damage suffered by you and arising out of or in connection with the use of Beacon by you and/or any third party shall not exceed the amount of the total fees actually paid by you to us in the twelve months preceding the date of the your claim.*
- 10.13 *You agree and acknowledge that you are in a better position than us to foresee and evaluate any potential damage or loss which you may suffer in connection with the use of Beacon; that we cannot adequately insure its potential liability to you; and that accordingly the exclusions and limitations contained in this clause 10 are reasonable. You also undertake at all times to mitigate any such damage or loss.*
- 10.14 *You undertake to indemnify and keep indemnified us against any and all claims, loss, expense and charges incurred by us as a result of any breach by you of any contract between you and any user.*

11. GENERAL

- 11.1 You shall not assign, transfer or sub-license any of your rights or obligations under these User Terms. We may at any time assign all or any of our rights and transfer all or any of our obligations under these User Terms.
- 11.2 Failure or neglect by us to enforce any of the provisions of these User Terms at any time shall not be construed or deemed to be a waiver of our rights nor shall this in any way affect the validity of the whole or any part of these User Terms, nor prejudice our rights to take subsequent action.
- 11.3 If any part of any provision of the User Terms shall be or become invalid, unlawful or unenforceable to any extent, then the remainder of such provision and all other provisions of the User Terms shall continue to be valid and enforceable to the fullest extent permitted by law. The User Terms represents the entire agreement of you and us in relation to the subject matter of the User Terms and supersedes any previous agreement between you and us in relation to the User Terms. Where you use the App in conjunction with the Site, these User Terms shall govern such use and references to App in these User Terms shall be deemed to include a reference to the Site. In the event of any conflict between these User Terms and any other terms relating to use of the Site, the conflicting provisions of these User Terms shall take precedence over such other terms. Neither of you and us has relied upon any statement or representation made by the other in agreeing to enter this agreement.
- 11.4 These User Terms represent the entire agreement of you and us in relation to the subject matter of these User Terms and supersedes any previous agreement between you and us in relation to Beacon. Neither of you and us has relied upon any statement or representation made by the other in agreeing to enter this agreement.

12. **LAW AND JURISDICTION**

- 12.1 These User Terms shall be construed in accordance with Northern Irish law and the parties hereby submit to the exclusive jurisdiction of the Northern Irish courts to settle any disputes which may arise in connection with these User Terms.