

**HERCULES AFFILIATES
TERMS AND CONDITIONS**

Most recent update: June 4, 2024

The HERCULES affiliate program (hereinafter the “**HERCULES Affiliate Program**” or the “**Program**”) is operated by Guillemot Corporation S.A. and its affiliates (hereinafter “**Guillemot**”, “**We**”, “**Us**” or “**Our**”).

The HERCULES Affiliate Program is ruled by the present HERCULES Affiliates Terms And Conditions (hereinafter the “**HERCULES Affiliate TAC**”) and is accessible on the following page of the Site: affiliate.hercules.com (hereinafter the “**HERCULES Affiliate Platform**” or the “**Platform**”).

Any person or entity that participates or attempts to participate in the Program (hereinafter “**Affiliate**”, “**You**”, or “**Your**”) must fully consult and accept (i) these HERCULES Affiliate TAC, (ii) the Terms And Conditions (hereinafter the “**TAC**” - Please review the TAC at: <https://www.hercules.com/en/terms-of-use/> , (iii) the Privacy Policy (hereinafter the “**Policy**” – Please review the Policy at: <https://www.hercules.com/en/legal-info/>), and (iv) the Hercules Affiliate code of conduct (hereinafter the “**HERCULES Affiliate Code Of Conduct**” or the “**HERCULES Code Of Conduct**” – Please review the HERCULES Code Of Conduct at: <https://affiliate.hercules.com/codeofconduct>). To the extent there is any conflict between these HERCULES Affiliate TAC, the TAC and/or the Policy, these HERCULES Affiliate TAC will take precedence. All capitalized terms not defined in these HERCULES Affiliate TAC have the respective meanings set forth in the TAC and the Policy.

We reserve the right to update these HERCULES Affiliate TAC at any time without notice to You. The latest version of these HERCULES Affiliate TAC can be reviewed by clicking on the “HERCULES Affiliate TAC” link located at the bottom of each page of the HERCULES Affiliate Platform.

ARTICLE 1 - DEFINITIONS

Affiliate Code	The customized code which may be specifically assigned to You within the framework of the HERCULES Affiliate Program. Such Affiliate Code must be entered by one of Your Followers, on Our online HERCULES shops, when placing the order of a Product. The Affiliate Code permits to link an Affiliate Purchase to Your Affiliate Account (as defined in Section 2.2 below), depending on the cookie settings of Your Follower (up to 30 days from the Follower’s click date).
Affiliate Link	The customized URL which may be specifically assigned to You within the framework of the HERCULES Affiliate Program and which directs Your Followers to Our online HERCULES shops. Any Affiliate Link contains a technology-based tracking system which permits to link an Affiliate Purchase to Your Affiliate Account, depending on cookie settings of Your Follower (up to 30 days from the Follower’s click date). If Your Follower clicks on multiple different Affiliate Links before buying a Product, only the first Affiliate Link he/she clicked on will be taken into consideration.
Affiliate Purchase	A purchase of a Product placed by one of Your Followers on Our online HERCULES shop, after entering an Affiliate Code or clicking on an Affiliate Link, in accordance with (i) the general terms and conditions of sale applicable on Our online HERCULES shops, (ii) these HERCULES Affiliate TAC, (iii) and any specific conditions as set out on the Platform. Such purchase must be fully paid by Your Follower, and confirmed by Us, to be considered as an Affiliate Purchase. Such purchase will be considered as null and void in case of cancellation, return, or refund of the related Product or purchase order.

Affiliate Websites / Your Website(s)	Your social network account(s) and/or website(s), or any other online localization, where We authorize You to display and share Your Affiliate Link(s) and/or Affiliate Code(s) (as the case may be) within Your participation in the Program. An Affiliate Website must be publicly accessible online, have an original content and a related audience, and must comply with the provisions of these HERCULES Affiliate TAC, especially Section 8 below.
Bounties	The incomes which Guillemot will grant You in consideration of a specific number of Affiliate Purchases linked to You and achieved during a particular promotional campaign. Bounties are further defined by Guillemot on the Platform (rate, Products concerned, starting and ending dates of the campaign, sales targets, etc.).
Commissions	The incomes which Guillemot will grant You in consideration of the Affiliate Purchases linked to You, apart from Bounties. Commissions are further defined by Guillemot on the Platform (rate, Products concerned, etc.).
Followers	Members of Your online audience.
Products	HERCULES branded products sold by Guillemot on Our online HERCULES shops, as identified on the Platform.
Reporting Data	Statistic data related to Your participation in the Program and accessible on Your Affiliate Account. You acknowledge and agree that Guillemot remains the sole owner of this Reporting Data and any rights attached to it.

ARTICLE 2 - APPLICATION FOR THE HERCULES AFFILIATE PROGRAM

2.1 DESCRIPTION OF THE HERCULES AFFILIATE PROGRAM

The Program permits You to become a HERCULES Affiliate, by entering into an agreement with Guillemot, *i.e.* these HERCULES Affiliate TAC. Subject to Your compliance with these HERCULES Affiliate TAC, as an Affiliate, You will be able to promote our HERCULES branded products by displaying and sharing on Your Website(s) the Affiliate Link(s) and/or Affiliate Code(s) (as the case may be), and earn Commissions and/or Bounties for each Affiliate Purchase linked to You within the framework of the Program.

2.2 ELIGIBILITY AND ACCESS TO THE PROGRAM

Applications for the Program are free and opened to any legal person having its registered address in the European Union, the United Kingdom, Switzerland, the United States of America, Canada, Australia or Brazil.

Notwithstanding the foregoing, We remind You that an Affiliate Purchase can only be delivered in one of the delivery regions as set out in the general terms and conditions of sale applicable on Our online HERCULES shops.

The Program can only be pursued for commercial purpose. When using the Platform and participating in the Program, You represent and warrant to only act for purpose of facilitating commercial transactions within Your professional activity and for no other purpose. You further represent and warrant that You will not act for Your personal purpose and/or as a consumer.

Application for and participation in the Program are made exclusively on the Platform, which is only available in English. Thus, You represent and warrant that You understand, write and speak English.

Application for and participation in the Program require at least an Internet access, an hardware, a valid email address and at least one Affiliate Website.

You are informed that the information You provide on the Platform is required for the consideration of Your application for and participation in the Program. Therefore, You undertake to provide Us with accurate, up-to-date and complete information. Any false, erroneous and/or incomplete statement will automatically render Your application for and/or participation in the Program null and void.

We reserve the right – at Our sole discretion – to (i) approve, or disapprove, Your application for the Program, (ii) carry out any verification, in particular of identity, contact and bank details prior to any acceptance of Your application for the Program. Any person who does not meet the conditions of these HERCULES Affiliate TAC, or who refuses to provide proof thereof, will be excluded from the Program and will not be able to benefit from the Commissions and/or Bounties.

If Your application for the Program is approved by Guillemot, You will:

- become a HERCULES Affiliate and be notified of such acceptance by email or directly via the Platform;
- be able to create a HERCULES Affiliate account which grants access to the Platform (hereinafter the “**Affiliate Account**”).

ARTICLE 3 - SPECIFICATIONS OF THE HERCULES AFFILIATE PROGRAM

3.1. The HERCULES Affiliate Platform

The **HERCULES** Affiliate Platform is part of the Site and gives You access to:

- Your contact and bank details;
- Your Affiliate Link(s) and/or Affiliate Code(s), as the case may be;
- The details of the Commissions and the available Bounties;
- The Reporting Data;
- Your invoices.

3.2. Payment terms and billing rules

3.2.1. Payment terms. In consideration of the Affiliate Purchases linked to Your Affiliate Account, and subject to the limitations described herein and Your compliance with these HERCULES Affiliate TAC, Guillemot will pay You Your relevant Commission(s) and/or Bountie(s), within forty-five (45) days of the invoice date, by bank transfer according to the bank details You provided on the Platform.

Payments made to You, as reduced by all deductions or withholdings described herein, will constitute full payment and settlement to You of amounts payable under these HERCULES Affiliate TAC.

If any excess payment has been made to You for any reason whatsoever, We reserve the right to adjust or offset the same against any subsequent income payable to You under these HERCULES Affiliate TAC.

3.2.2. Payment threshold. Notwithstanding the foregoing, if the total amount due to You does not reach one hundred (100) Euros during the relevant calendar month, We will hold Your payment until Your balance meets such minimum threshold.

However, for the month of November, no payment threshold is required, which means any total amount in Your balance due will be in paid.

3.2.3. Currency. All payment shall be in Euros. You may be permitted to elect to receive payment in a currency other than Euros. If You choose to do so, You agree that the conversion rate will be determined in accordance with Our operating standards.

3.2.4. Taxes. You would have to meet the VAT invoicing requirements in Your own country of establishment. In case of any doubt, we recommend You contact Your local tax office or tax adviser.

If We are required by law or a governmental body charged with the administration thereof to withhold or deduct any taxes or amounts from or in respect of any amounts payable by Us to You hereunder then: We (i) shall make such withholdings or deductions, (ii) shall pay the full amount withheld or deducted to the relevant taxation or other authority in accordance with applicable laws, and (iii) shall promptly deliver to You a receipt or similar documentation of the relevant authority evidencing the payment of such withholdings or deductions. We shall take all reasonable steps to minimize such deduction or withholding, including without limitation securing the minimum rate under any income tax convention which applies between the country imposing the deduction or withholding and Your country of residence. For that, upon Our request, You agree to provide Us, within thirty (30) days of Our request, with any forms requested by Us.

3.2.5. Self-billing. In order to make invoicing easier, We only accept self-billing system. Therefore:

- Your country of establishment must accept self-billing system;
- By applying to and participating in the Program, You accept that We will issue, in Your name and on Your behalf, any invoice payable to You within the framework of Your participation in the Program (hereinafter the “**Self-billing Mandate**”). The Self-Billing mandate is accessible at: <https://affiliates.hercules.com/selfbillingmandate>).

You may raise any observation or contestation relating to any invoice that We have issued pursuant to the Self-billing Mandate, within seven (7) days from the date the contested invoice is made available on Your Affiliate Account. It is expressly specified that invoices issued and not contested within such time limit will be considered as accepted by the Affiliate.

If You raise observation or contestation about an invoice, notwithstanding anything to the contrary, You shall issue a corrective invoice in the name of GUILLEMOT CORPORATION S.A.:
GUILLEMOT CORPORATION S.A.
2 RUE DU CHENE HELEUC,
56910 CARENTOIR,
FRANCE

Such corrective invoice shall comply with the provisions of the Self-billing Mandate, mention the following VAT number: VAT n° FR 13 414 196 758, and shall be sent by the Affiliate to Guillemot (at billing@guillemot.fr) within seven (7) days from the date the contested invoice is made available on Your Affiliate Account.

Failing to comply with the foregoing, You will not receive the relevant payment.

3.2.6. Payment history. You will be able to access to Your payment history, including the related invoices and details, on a dedicated page of the Platform.

ARTICLE 4 - MANDATORY DISCLOSURES TO YOUR FOLLOWERS

You must clearly and prominently disclose to Your Followers that You receive money for any Affiliate Purchase by indicating the following (or any similar disclosure) on Your Website(s):

- For Affiliate Links: “As a member of the HERCULES® affiliate program, we may earn money if you click on this link and make a purchase”;
- For Affiliate Codes: “As a member of the HERCULES® affiliate program, we may earn money if you enter this code when purchasing a product on their website”.

In addition to this disclosure, in each of Your web content of Your Website(s) containing Your Affiliate Code(s) and/or Affiliate Link(s) (hereinafter “**Your Affiliate Web Contents**”), You shall indicate that it is a sponsored content by specifying “advertisement for HERCULES®” (or for publications in French “Publicité pour HERCULES®” or “Collaboration commerciale avec HERCULES®”). To this end, You may use the advertising content identification tools available on Your Website(s). In addition, any publication containing faces or bodies retouched by an image processing method must include the mention “Retouched images”. Any publication containing faces or bodies generated by an artificial intelligence process must include the mention “Virtual Images”. The foregoing shall appear in a clear, legible and identifiable manner throughout the publication in question (for example before the mention “show more” or equivalent mention in the description of the publication).

ARTICLE 5 - INTELLECTUAL PROPERTY

5.1. Use of Your Affiliate Web Contents by Guillemot. Within the framework of Your participation in the Program, You grant Guillemot a royalty-free, irrevocable, unrestricted, non-exclusive, worldwide, assignable, sub-licensable, right and license to share and display (including the right to use, copy, reproduce, publish, distribute and perform) any of Your Affiliate Web Content, Your Affiliate Code(s) and/or Your Affiliate Link(s), for the purposes of promoting any and all Guillemot's products, as well as Guillemot's trademarks and Guillemot's image, without providing compensation to You or any other person, without any liability whatsoever, and free from any obligation of confidence or other duties on the part of Guillemot, on:

- the Internet: including but not limited to Guillemot's social media, websites and mobile applications, emailing, any websites for hosting and sharing user generated contents and social networks;
- Intranet; and
- any media, known or to be discovered, during any event and/or on any tradeshow booths: including but not limited to billboards, advertising materials, display screens and video playback apparatus for events or trade shows.

You understand that this grant of rights may not be withdrawn at any time in the future, while these HERCULES Affiliate TAC are effective.

You acknowledge and agree that Guillemot have no obligation to use Your Affiliate Web Contents, and that Guillemot may decide at any time and at its sole discretion to stop using the same.

You acknowledge and agree that Guillemot is unable to prevent and shall not be held liable for any use made by third parties of Your Affiliate Web Contents, Your Affiliate Link(s) and/or Your Affiliate Code(s) following their dissemination by Guillemot (although Guillemot shall alert You should Guillemot become aware of any suspected misuse(s) of Your Affiliate Web Contents, Your Affiliate Link(s) and/or Your Affiliate Code(s)). Guillemot does not guarantee that the said dissemination shall take place under the supervision and control of Guillemot (for example, the publication of the Affiliate Web Contents, Your Affiliate Link(s) and/or Your Affiliate Code(s) on the Facebook website with the "Public" setting means that anyone, including individuals not registered with the Facebook service, may access, save, copy and use said contents). Consequently, You agree not to make any claim or take any proceedings against Guillemot, its affiliates, directors, shareholders, administrators, employees or agents, or against the representatives, successors or officers of any of the same, or against persons acting with their permission or under their authority (hereinafter referred to collectively as the "**Discharged persons**") in relation to any responsibility whatsoever, linked to the representation, reproduction, dissemination or exposition of Your Affiliate Web Contents, Your Affiliate Link(s) and/or Your Affiliate Code(s). You hereby agree to release, discharge and hold harmless the Discharged persons, against and in respect of any and all losses, damages, claims, liabilities, deficiencies, liens, legal actions, judgments, and/or liquidated damages directly or indirectly related to the use of Your Affiliate Web Contents, Your Affiliate Link(s) and/or Your Affiliate Code(s) by Guillemot pursuant to these HERCULES Affiliate TAC.

5.2. Your use of Our assets. To facilitate the spread and use of Your Affiliate Link(s) and/or Affiliate Code(s), We may provide You with general brand assets and related information (hereinafter the "**HERCULES Assets**" or the "**Assets**"), in addition to Your Affiliate Link(s) and/or Affiliate Code(s). In this perspective, during the term as mentioned in Section 6 of these HERCULES Affiliate TAC, Guillemot grants You the non-exclusive right to display the HERCULES Assets on Your Website(s), such right being limited to what is necessary to fulfil Your commitments under these HERCULES Affiliate TAC.

You shall not modify, adapt or translate the HERCULES Assets, Your Affiliate Link(s) and/or Affiliate Code(s).

You shall never create, or allow the creation of, any confusion as to the origin and the ownership of Our trademarks (or any other intellectual property rights We own). All intellectual property rights not expressly licensed to You hereunder are expressly reserved by Guillemot and only disclosed to You for the limited purpose of Your participation in the Program. You shall comply with any guidelines Guillemot may issue regarding the use of the HERCULES Assets, the Affiliate Link(s) and/or the Affiliate Code(s).

Guillemot has an exclusive right to apply for or register worldwide any (i) Guillemot's brand in case such brand is not already applied for or registered as a trademark, (ii) domain name embodying the name of GUILLEMOT or HERCULES or THRUSTMASTER or ESWAP, and (iii) other trademarks related to Our products. You have no right to apply for any trademark identical or similar to GUILLEMOT or HERCULES or THRUSTMASTER or ESWAP, or for any patent, design patent or copyright related to Our products and/or HERCULES Assets. When at any moment You own any domain name embodying the trademarks GUILLEMOT or HERCULES or THRUSTMASTER or ESWAP, You hereby undertakes to offer to assign to Us such domain name for its applying cost. We shall not be obliged to accept such offer. This clause shall apply *mutatis mutandis* to any social media advertising, including without limitation to the creation and/or use of the Our trademarks on social media pages or in social media handles.

You shall not use any of the HERCULES Assets, the Affiliate Link(s), the Affiliate Code(s) and/or any of Our trademarks after the end of Your participation in the Program as indicated in Section 6 of these HERCULES Affiliate TAC.

If You discover any unauthorized use by any third party of any intellectual property right owned by Guillemot, You shall immediately notify Guillemot thereof. You shall co-operate with Guillemot in taking all steps as the latter may reasonably require in order to prevent or forbid the unauthorized or illegal copies of any of Our products.

ARTICLE 6 - TERM AND TERMINATION

- 6.1. These HERCULES Affiliate TAC become effective upon Our acceptance of Your application for the Program, for an unlimited period of time, unless and until terminated by either party. Either party may terminate these HERCULES Affiliate TAC, at any time, with or without cause, by giving the other party thirty (30) days prior written notice of termination.
- 6.2. In case of a breach by either party in the fulfilment of any of its obligations under these HERCULES Affiliate TAC – especially Sections 2.2, 4, 5, 7.2, 8 and 13 for the Affiliate and Sections 3.2.1 for Guillemot – the non-defaulting party may send the defaulting party a formal notice, by registered letter with acknowledgement of receipt or by email with acknowledgement of receipt, requiring it to remedy its non-performance. If the defaulting party has failed to remedy its non-performance within fifteen (15) days of receipt of such notice, the non-defaulting party is entitled to terminate the Agreement without prejudice of its other rights.
- 6.3. In case of termination of these HERCULES Affiliate TAC due to Your breach of these HERCULES Affiliate TAC, You acknowledge and agree that, without prejudice to Our right to end Your participation in the Program and claim compensation, We are entitled to (i) reduce the Your Commissions and/or Bounties, (ii) suspend or delete Your Affiliate Account.
- 6.4. In case of termination of Your participation in the Program due to the inactivity of Your Affiliate Account (no Affiliate Purchase during twelve successive months), You acknowledge and agree that, without prejudice to Our right to end Your participation in the Program, We are entitled to suspend or close Your Affiliate Account.
- 6.5. At the end of these HERCULES Affiliate TAC, for whatever reason, Your participation in the Program will end automatically. You will no longer be a HERCULES Affiliate and will no longer access to Your Affiliate Account. Thus, You must immediately cease to display and/or share and/or cease to use, and remove from Your Website(s) the Affiliate Link(s) and/or the Affiliate Code(s), the use of Guillemot's name, the respective name of the Our product(s), Our Trademarks, and any intellectual property rights pertaining to Us. If Your Affiliate Account balance is positive at the abovementioned termination date, You will receive the related payment within thirty days of the termination date of these HERCULES Affiliate TAC.
- 6.6. Notwithstanding the foregoing, any provisions which by their nature extend beyond the expiration or termination for any cause whatsoever of these HERCULES Affiliate TAC, shall survive the termination of these HERCULES Affiliate TAC.

ARTICLE 7 - NON-EXCLUSIVITY AND CONFIDENTIALITY

- 7.1. It is expressly agreed between the parties that the participation in the Program is non-exclusive. As a consequence, either party will not oppose the conclusion by the other party of agreements pursuing similar objects to those of these HERCULES Affiliate TAC with third parties.

7.2. Unless otherwise indicated by Guillemot, You shall treat any information which is communicated to You by Guillemot within the framework of the Program and these HERCULES Affiliate TAC, whether in oral, written, graphic or electronic form, as strictly confidential and hereby undertakes not to disclose any of this information for any reason or in any form whatsoever, to any person whatsoever, both during the term of these HERCULES Affiliate TAC and after their termination without having obtained Our prior written approval. **THE SAID INFORMATION ARE NOTABLY any information related to (i) any future product disclosed to You in any circumstances, (ii) any information contained in the Platform (except information that You have provided), and (iii) any information which should reasonably have been understood by You to be confidential, because of identification or designation by Us as “confidential” or a similar mention or indication, the circumstances of the disclosure or the nature of the information itself.**

ARTICLE 8 - REPRESENTATION AND WARRANTY

You represent and warrant that You have the complete right to enter into these HERCULES Affiliate TAC and to perform the obligations required hereunder. Especially, if You are a natural person, You represent and warrant that You are of legal age and not prevented from contracting. If You are a legal person, You represent and warrant that You are duly authorized for the purposes hereof.

You further represent and warrant that (i) the conclusion of these HERCULES Affiliate TAC and Your participation in the Program do not violate any agreement, contract, right or obligation between You and any third party (partners, sponsors, team, federations, association, *etc.*), and (ii) the rights You assigned under these HERCULES Affiliate TAC are legally available and are not encumbered – in any way whatsoever, whether partially or completely, directly or indirectly – by third party rights.

Furthermore, within the framework of Your participation in the Program, You represent and warrant that You do not and will not:

- infringe any applicable law;
- infringe any terms and conditions applicable on Your Website(s);
- infringe any of Our rights or act in a way that tarnishes the public’s view of Guillemot, Our brands and/or products, disrepute, disparage or otherwise damage Our name, brand image and/or goodwill;
- infringe any third party’s right (including but not limited to any intellectual property right, image right, right to privacy, personal data protection right, consumer protection right), or commit any act of unfair competition;
- engage in spamming, indiscriminate advertising or sending of unsolicited commercial email;
- use Google Ads or any other paid search placement, third party pop-up or pop-under systems or services to promote the Program and/or display and/or share Your Affiliate Link(s) and/or Affiliate Code(s);
- hack, spread or transmit any virus, spyware, malware, worm, Trojan horse, or any code of a destructive nature on Our websites, or hijack or modify the Program and/or Our websites (including the Platform);
- modify or adapt any information, or make inaccurate or deceptive claims, about any of Our products, especially the Products, or modify or alter Your Affiliate Link(s) and/or Affiliate Code(s), and/or the HERCULES Assets;
- engage in any promotional or advertising activity related to Our products other than what is permitted to You within the framework of Your participation in the Program;
- attempt to circumvent Our tracking system related to the payment of Your Commissions and/or Bounties, or artificially increase them;
- artificially generate clicks on Your Affiliate Link(s), or create sessions on Our HERCULES online store which use Your Affiliate Code(s), whether by way of a robot or software program or otherwise, in order to make a purchase and earn a Commission or a Bounty;
- display and/or share Your Affiliate Link(s) and/or Affiliate Code(s), and/or any HERCULES Assets, anywhere else than on Your Website(s);
- present You as a seller, reseller, provider and/or ambassador of Our products (especially the Products);
- collect any special categories of personal data of Your Followers, within the meaning of Article 9 and/or Article 10 of the General Data Protection Regulation (EU) 2016/679;
- act in a way that is insulting, aggressive, sarcastic, denigrating or provocative, or act in a way that incite violence, potentially dangerous or harmful acts, racism, any form of segregation, illegal activities or which is obscene.

Accordingly, without limiting the generality of provisions of Section 10 below, You shall hold Guillemot harmless from any claims, court actions, civil proceedings and actions to establish title brought against Guillemot, its clients, licensees, manufacturers, distributors, agents and resellers on the grounds of the infringement of the rights of a third party, regardless of the cause thereof or on which a third party possesses the rights, within the framework of Your participation in the Program and/or execution of these HERCULES Affiliate TAC.

ARTICLE 9 - DISCLAIMER

THE PLATFORM, THE PROGRAM AND THEIR RESPECTIVE CONTENTS ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATION, TERM, CONDITION OR WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED (AND WHETHER IMPLIED BY LAW, CUSTOM OR OTHERWISE) IN RESPECT OF THE PLATFORM, THE PROGRAM AND THEIR RESPECTIVE CONTENTS. GUILLEMOT DISCLAIM ALL REPRESENTATIONS, TERMS, CONDITIONS AND WARRANTIES INCLUDING, BUT NOT LIMITED TO, AS TO SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

IN ADDITION, GUILLEMOT EXCLUDE ANY REPRESENTATION OR WARRANTY THAT THE INFORMATION AND/OR FACILITIES ACCESSIBLE VIA THE PLATFORM ARE ACCURATE, COMPLETE OR CURRENT, OR THAT THE PLATFORM WILL BE FREE OF DEFECTS INCLUDING, BUT NOT LIMITED TO, VIRUSES OR OTHER HARMFUL ELEMENTS. THE AFFILIATE ASSUMES ALL COSTS AND RISKS ARISING AS A RESULT OF ITS PARTICIPATION IN THE PROGRAM (INCLUDING ITS USE OF THE AFFILIATE LINK(S), AFFILIATE CODE(S), HERCULES ASSETS, AND BROADLY ITS USE OF THE PLATFORM). THE AFFILIATE REMAIN SOLELY RESPONSIBLE FOR THE AFFILIATE WEBSITE(S), INCLUDING ITS DEVELOPMENT AND MAINTENANCE, ITS CONTENT AND ITS COMPLIANCE WITH ALL APPLICABLE LAWS AND TERMS AND CONDITIONS.

ARTICLE 10 - EXCLUSION OF LIABILITY AND INDEMNIFICATION

EACH PARTY (EACH RESPECTIVELY AN "INDEMNIFYING PARTY") SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY (EACH RESPECTIVELY AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, SUITS, ACTIONS OR PROCEEDINGS BROUGHT AGAINST AN INDEMNIFIED PARTY BY A THIRD PARTY, INCLUDING ALL FINES, JUDGMENTS, SETTLEMENTS, PENALTIES, LIABILITIES, LOSSES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES) SUFFERED BY AN INDEMNIFIED PARTY IN CONNECTION THEREWITH, TO THE EXTENT CAUSED BY (I) A BREACH OR DEFAULT BY THE INDEMNIFYING PARTY OF ANY PROVISION OF THESE HERCULES AFFILIATE TAC, INCLUDING WITHOUT LIMITATION A BREACH OF ANY REPRESENTATION, UNDERTAKING OR WARRANTY BY SUCH INDEMNIFYING PARTY; (II) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFYING PARTY; (III) THE ACTUAL OR ALLEGED VIOLATION BY THE INDEMNIFYING PARTY OF ANY LAW OR REGULATION, OR (IV) THE ACTUAL OR ALLEGED INFRINGEMENT BY THE INDEMNIFYING PARTY OF ANY INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY (EXCEPT TO THE EXTENT SUCH INFRINGEMENT ARISES SOLELY OUT OF ONE PARTY'S AUTHORIZED AND PROPER USE OF THE OTHER'S TRADEMARKS, COPYRIGHTS, OR OTHER RIGHTS).

NOTWITHSTANDING THE FOREGOING,

(i) IT IS THE RESPONSIBILITY OF THE AFFILIATE TO TAKE ALL APPROPRIATE MEASURES TO PROTECT ITS OWN DATA, LOGIN(S), PASSWORD(S) AND/OR SOFTWARE STORED ON ITS HARDWARE AGAINST ANY ATTACK. EACH AFFILIATE WHO PARTICIPATES IN THE PROGRAM AND USE THE PLATFORM DO SO UNDER ITS OWN RESPONSIBILITY;

(ii) BY PARTICIPATING IN THE PROGRAM, THE AFFILIATE AGREE TO RELEASE, DISCHARGE AND HOLD HARMLESS GUILLEMOT, ITS ADVERTISING AND COMMUNICATION PROVIDERS, AND ANY OTHER ENTITY INVOLVED IN THE DEVELOPMENT AND/OR IMPLEMENTATION OF THE PROGRAM AND/OR THE PLATFORM, FROM ANY AND ALL LIABILITY, CLAIMS, LOSSES AND/OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH ITS PARTICIPATION IN THE PROGRAM AND USE OF THE PLATFORM.

GUILLEMOT ASSUMES NO RESPONSIBILITY FOR STOLEN, LOST, ILLEGIBLE, FALSIFIED, MISDIRECTED, ALTERED OR INCOMPLETE INFORMATION ENTERED INTO THE PLATFORM BY AN AFFILIATE (INCLUDING PASSWORD(S), LOGGIN(S), CONTACT AND BANK DETAILS).

GUILLEMOT DISCLAIMS ANY RESPONSIBILITY RELATING TO POSSIBLE DISSATISFACTION OF THE AFFILIATE CONCERNING THE PROGRAM, WITHIN THE LIMITS ALLOWED BY APPLICABLE LAWS.

ARTICLE 11 - PERSONAL DATA

Where terms and expressions used in the present article are not defined in this HERCULES Affiliate TAC, they will have the meaning assigned to them by the Regulation (EU) 2016/679 and laws, regulations or statutory instruments enacted thereunder (the “**GDPR**”) or otherwise applicable.

We only use the personal data You provided and purchase logs for the performance of the Program and these HERCULES Affiliate TAC, and for any purpose for which You gave Your prior consent. Within this framework, We collect, use, and disclose any personal information You provided in accordance with the Policy, which is available by clicking [here](#).

As part of the Affiliate Account, Guillemot provides the Affiliate with self-service features, that the Affiliate may use to retrieve, correct, and/or delete personal data, which the Affiliate may use to assist it in connection with its obligations under personal data protection legislation with respect to requests from data subjects. Guillemot shall, taking into account the nature of the processing, provide reasonable additional assistance to the Affiliate as required from time to time to enable the Affiliate to comply with his/her obligations under applicable data protection legislation. In the event that any such request is made to Guillemot directly, Guillemot shall not respond to such request directly except as appropriate (for example, to direct the data subject to contact the Affiliate) or legally required, without the Affiliate’s prior authorization. If Guillemot is required to respond to such a request, Guillemot will notify the Affiliate. For the sake of clarity, nothing in the HERCULES Affiliate TAC restricts or prevents Guillemot from responding to any data subject or date protection authority request in relation to personal data for which Guillemot is a controller.

We will not disclose any of Your personal information publicly, including Your name, postal address, email or any of Your other contact details.

You represent and warrant that within Your participation in the Program, You agree to comply with any applicable personal data protection regulation.

ARTICLE 12 - FORCE MAJEURE

Neither party shall be liable for any delay in performing or failure to perform its obligations hereunder to the extent that and for so long as the delay or failure results from any unforeseeable cause or circumstance beyond its reasonable control (hereinafter, an “**event of force majeure**”) provided the same arises without the fault or negligence of such party. Each party shall use its reasonable endeavours to minimise the effects of any event of force majeure.

Immediately upon becoming aware of any event of force majeure, the affected party shall notify the other party of the manner and extent to which its obligations are likely to be prevented or delayed and the date(s) for performance of the obligation(s) affected shall be postponed for so long as is made necessary by the event of force majeure.

If any event of force majeure continues for a period of or exceeding two (2) months, either party may terminate these HERCULES Affiliate TAC with immediate effect on giving written notice to the other party and neither shall be liable to the other for such termination.

ARTICLE 13 - INSURANCE

For at least the duration of these HERCULES Affiliate TAC, the Affiliate warrants to Guillemot having taken out and maintain at its own expense, a liability insurance that protects Guillemot from claims which may arise out of or result from the participation in the Program by the Affiliate and against any damages that may be caused by Affiliate to third parties within this framework (including but not limited to Guillemot). Guillemot shall not be responsible and liable for any insurance problems or lack of insurance of the Affiliate.

ARTICLE 14 - MISCELLENEOUS

- 14.1. Unless otherwise mentioned in these HERCULES Affiliate TAC, any notices required or permitted under herein shall be sent (i) by registered mail with acknowledgement of receipt and shall be deemed to have been received on the date of its initial presentation or (ii) by courier (FedEx or equivalent) and shall be deemed to have been received on the date of delivery. Any notice required or permitted under these HERCULES Affiliate TAC shall be given to the appropriate party at the address specified in writing by such party. For the ordinary and daily communications concerning these HERCULES Affiliate TAC, ordinary postal services, e-mails and telephonic calls can be used.
- 14.2. These HERCULES Affiliate TAC represent the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written negotiations, understandings and agreements on such subjects between the parties, including (if any) Your general and/or special conditions and all other standard business terms of Yours of whatever nature or kind. No modification, amendment of any provision hereof will be effective unless made in writing and signed by all the parties.
- 14.3. Each party hereby states and acknowledges that both is and shall remain so, throughout the entire duration of these HERCULES Affiliate TAC, independent professional, each assuming the risks for their own, neither being an employee or agent of the other party. Each party will remain independent, and nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the parties. Neither party shall have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, in the name of or on behalf of the other party. In particular, within the framework of this Program, You are not and will not be considered as a seller, reseller, provider or ambassador of Our products.
- 14.4. If any provision of these HERCULES Affiliate TAC is held by a court to be void or unenforceable for any reason, the remaining provisions of these HERCULES Affiliate TAC shall continue in full force and effect. The parties undertake to replace such void or unenforceable provision with a valid one which best correspond to the economic purpose of the provision held to be void or enforceable.
- 14.5. Since We have accepted Your application for the Program upon Your capabilities, skills and online audience, the rights and obligations resulting from these HERCULES Affiliate TAC may not be transferred by You for any reason and in any form whatsoever to any person whatsoever, without Our prior written consent.
- 14.6. Each party remains the sole owner of its trademarks, copyrights, logos, brands and any other intellectual property rights. The authorizations granted under these HERCULES Affiliate TAC to the other party are strictly limited to the use expressly set out in these HERCULES Affiliate TAC. Any other use must be subject to a prior written agreement of its owner.
- 14.7. No delay on the part of any party in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by any party of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.
- 14.8. [ONLY APPLICABLE TO AFFILIATES WITH FRENCH AUDIENCE] You are reminded that if You are not established in the territory of a member state of the European Union, the Swiss Confederation or the European Economic Area, You shall designate in writing a legal or natural person to ensure Your legal representation on the territory of the European Union.

ARTICLE 15 - APPLICABLE LAW AND JURISDICTION

These HERCULES Affiliate TAC shall be governed by the laws of France, including the French consumer code, the French intellectual property code, and Law No. 2023-451 of June 9, 2023 regulating commercial influence and tackling abuses by influencers on social networks. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (April 11, 1980) shall not apply to these HERCULES Affiliate TAC.

Both parties irrevocably agree to submit to the exclusive jurisdiction to the Courts of Paris (France) any claims or matters between them arising out of or relating to these HERCULES Affiliate TAC, the Program and/or the Platform, which cannot be resolved by mutual agreement.