

United States Bankruptcy Court, Southern District of New York

Fill in this information to identify the case (Select only one Debtor per claim form):

Debtor: Gawker Media, LLC

Case Number: 16-11700

RECEIVED  
JUN 20 2016  
PRIME CLERK LLC

Official Form 410  
**Proof of Claim**

- Date Stamped Copy Returned  
 No Self-Addressed Stamped Envelope  
 No Copy Provided



4/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Moat Inc.</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent?  <u>Moat Inc.</u> Name <u>28 East 28th Street</u> Number Street <u>New York NY 10016</u> City State ZIP Code  Contact phone <u>646-374-4727</u> Contact email <u>debbie.dillon@moat.com</u>	Where should payments to the creditor be sent? (if different)  <u>Moat Inc.</u> Name <u>222 S Albany Street</u> Number Street <u>Ithaca NY 14850</u> City State ZIP Code  Contact phone <u>607-256-0464</u> Contact email <u>finance@moat.com</u>
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 15,665.64 Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  
  
Moat Pro and Moat Analytics Services

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
**Value of property:** \$ \_\_\_\_\_  
  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)  
  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
  
**Annual Interest Rate (when case was filed)** \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

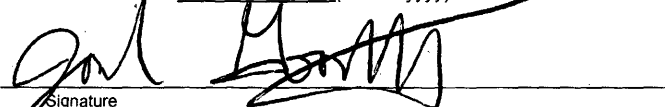
I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/14/2016 (mm/dd/yyyy)



Signature

Print the name of the person who is completing and signing this claim:

Name Jonah Goodhart  
First name Middle name Last name

Title CEO

Company \_\_\_\_\_  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address \_\_\_\_\_  
Number Street

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

**Moat Inc.**  
 222 S. Albany St.  
 Suite #2  
 Ithaca, NY 14850  
 (607)256-0464  
 lynn.palmer@moat.com

# Statement

**TO**  
 Gawker Media, LLC  
 114 Fifth Avenue  
 2nd Floor  
 New York, NY 10011

**STATEMENT NO.** 1634  
**DATE** 06/14/2016  
**TOTAL DUE** \$15,665.64  
**ENCLOSED**

DATE	ACTIVITY	AMOUNT	OPEN AMOUNT
09/28/2015	Invoice #GM7412: Due 10/28/2015. --- Moat Pro - Up to 5 Authorized Users = \$2,500.00 --- Tax = \$221.88	2,721.88	2,721.88
04/28/2016	Invoice #GM11896: Due 05/28/2016. --- Moat Pro - Up to 5 Authorized Users = \$2,500.00 --- Tax = \$221.88	2,721.88	2,721.88
05/08/2016	Invoice #GM12395: Due 06/07/2016. --- Moat Analytics for display and sponsored content = \$7,500.00	7,500.00	7,500.00
05/28/2016	Invoice #GM12743: Due 06/27/2016. --- Moat Pro - Up to 5 Authorized Users = \$2,500.00 --- Tax = \$221.88	2,721.88	2,721.88

Current Due	1-30 Days Past Due	31-60 Days Past Due	61-90 Days Past Due	90+ Days Past Due	Amount Due
2,721.88	10,221.88	0.00	0.00	2,721.88	<b>\$15,665.64</b>

**MASTER SERVICES AGREEMENT**  
**MOAT ANALYTICS**

This Master Services Agreement ("Master Services Agreement" or "MSA") is made as of the date indicated below (the "Effective Date") by and between Moat Inc., a Delaware corporation, with its principal place of business at 162 5<sup>th</sup> Avenue, 11<sup>th</sup> Floor, New York, NY 10011 ("Moat") and "Company" (defined below), (each a party and collectively the "Parties").

**COMPANY:**

<b>Company Name:</b>	Gawker Media, LLC	<b>Primary Contact:</b>	Ryan Brown
<b>Doing Business As (DBA):</b>		<b>Phone:</b>	212-655-9524
<b>Address Line 1:</b>	210 Elizabeth Street, 4 <sup>th</sup> Fl	<b>Email:</b>	ryan@gawker.com
<b>City, State, Postal Code:</b>	New York, NY 10012		
<b>TIN:</b>		<b>Billing Contact:</b>	Jessica Hermann
<b>Country:</b>	USA	<b>Phone:</b>	212-655-9524
		<b>Email:</b>	jessica@gawker.com

**Effective Date:** July 1, 2014

**Fees:** \$7,500 per month;

**Setup Fee:** Waived for Gawker;

**Primary Site(s):** <http://www.gawker.com>, <http://www.kinja.com>, <http://www.deadspin.com>, <http://www.kotaku.com>, <http://www.jezebel.com>, <http://www.io9.com>, <http://www.jalopnik.com>, <http://www.gizmodo.com>, <http://www.lifehacker.com>

**Ad Type:** Display and Sponsored Content

**Inventory Type:** All Owned & Operated Inventory

**Edition:** Publisher

The parties agree as follows.

1. **Term.** The "Term" of this Agreement begins from the Effective Date and lasts for 12 months. The Agreement shall automatically renew for successive terms of 12 months. The Company shall have the right to terminate this Agreement at any time with 90 days written notice.
2. **Fees.** Fees for use of the Moat Analytics Platform are outlined above. All fees are stated exclusive of sales tax and value added tax (if any). Company shall be liable for all fees accrued during the Term. From time to time, Moat may adjust fees, provided that the Company is given 90 days notice before any adjustments are made, and the Company shall have the option to terminate Agreement upon the effective date of the change.
3. **Moat Analytics Services.**
  - 3.1. Under the terms above, Moat will provide Company with data and analyses of user behavior related to ads specified by Company (the "Services"). Company may specify ads run by Company (on behalf of itself or its clients) or third party ads run on Company's Primary Site(s). Moat may use statistical sampling techniques to derive and report data and perform analysis. Company shall have the limited right to use the reporting data from the Moat services to analyze and measure consumer interaction with ads on Company's site and report such data to their advertisers. Moat may use such data to provide the Services to

Company and may collect and distribute anonymously aggregated data externally that was derived from the Services (e.g., 1,000,000 ads analyzed by Moat Ad Analytics) or anonymous, aggregate data collected through the usage of the Services, commercial information, statistics, log files and information gathered by the Service Provider, including benchmarking, performance and usage information, provided that such data cannot identify Company or its clients.

3.2. Company grants to Moat a worldwide, non-exclusive, royalty-free license to copy and use any webpage content solely to the extent necessary for Moat to provide the Services to Company. This license will terminate immediately upon termination or expiration of this Agreement.

3.3. As between Company and Moat, Company will own all right, title and interest in its trademarks, service marks and other brand features. As between Moat and Company, Moat will own all right, title and interest in everything related to the Services, including but not limited to all software, technology and processes and all derivatives works and improvements thereto. Company grants to Moat a , perpetual, worldwide royalty free right to include Company's name in Moat's marketing, promotional materials and customer lists, upon the prior written approval by Company in each instance.

3.4. Company will not (a) use the Service or the Data to collect personally identifiable information of users; (b) associate any Data with any personally identifiable information from any source; (c) copy, reproduce, modify, damage, disassemble, decompile, reverse engineer or create derivative works of any Moat Service or Moat product; (d) breach, disable, tamper with, or develop or use (or attempt) any workaround for any security measure provided by any Moat Service; (e) modify any Tags (any programming code or HTML that requests Moat to receive or send data), or set, alter, delete or link to any Moat cookie on an Moat domain; (f) Set any cookie or store by any technical means data derived from Moat Services including behavioral and contextual data without written approval from Moat. Company will have and abide by a legally sufficient privacy policy that discloses its use of third parties analytics to gather anonymous data on user behavior and will comply with all applicable laws relating to the collection of information from visitors to Company's website(s). Prior to fully deploying the Service on Company's production environment, the Company is responsible for testing the Moat code in a manner sufficient to ensure that the code will not interfere with the proper functioning of Company's web pages, including proper ad loading.

4. **Payment.** Company will pay Moat within 30 days of each invoice date. [deleted provision re: credit check b/c not relevant here and deleted section re: reimbursement of taxes/fees. If you envision specific taxes/fees, let us know what they are so that we can discuss]

5. **Termination.** Either party may terminate this Agreement for convenience upon ninety (90) days written notice to the other party.

6. **Confidentiality.** "Confidential Information" means any information relating to or disclosed in the course of the Agreement, which should be reasonably understood to be confidential. The receiving party will use the same care to protect Confidential Information as it uses for its own similar information, but no less than reasonable care, and will use Confidential Information only for the purpose of fulfilling its obligations under this Agreement. The receiving party will promptly return or destroy the other party's Confidential Information upon request. "Confidential Information" does not include information that (a) is or becomes part of the public domain through no fault of the receiving party; (b) was already in possession of the receiving party; or (c) was independently developed by the receiving party without violation of this Section. If a receiving party is required to disclose Confidential Information by law, the receiving party will promptly notify the disclosing party.

7. **Mutual Indemnity.** Company will indemnify, defend, and hold harmless Moat, its officers, directors, shareholders, agents, employees and representatives against all liability, claims, and damages that Company's collection or use of the Data or that Moat's performance of the Services violates any third party rights, except for claims of that the technology that provides the Services infringes any third party intellectual property rights. Moat will indemnify, defend, and hold harmless Company, its parents,

subsidiaries, affiliated companies, officers, directors, shareholders, agents, employees and representatives against all liability, claims, and damages that Moat's technology that provides the Services infringes any third party intellectual property rights.

**8. Disclaimers and Limit of Liability.**

MOAT, ITS AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONTRACTORS AND AGENTS (the "PROGRAM PARTIES") MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. THE SERVICES ARE PROVIDED AS IS AND AS AVAILABLE, WITH NO WARRANTY AS TO CONTINUOUS SERVICE OR DELIVERY OF ANY AD OR IMPRESSION.

TO THE MAXIMUM EXTENT PERMITTED BY LAW; NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES AND RELATED SYSTEMS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR AMOUNTS OWED UNDER SECTION 3, THE TOTAL LIABILITY OF EACH PARTY ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE FEES OWED BY COMPANY FOR THE NINETY DAYS PRECEDING THE DATE THE CAUSE OF LIABILITY AROSE. THE FOREGOING SHALL NOT LIMIT A PARTY'S (A) LIABILITY FOR ANY ACTUAL BREACH OF ITS REPRESENTATIONS AND WARRANTIES PURSUANT TO SECTION 9.4; (B) LIABILITY FOR ANY BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6; (C) LIABILITY FOR ITS INFRINGEMENT OR MISAPPROPRIATION OF ANY PROPRIETARY RIGHTS OF THE OTHER PARTY; AND (D) INDEMNIFICATION OBLIGATIONS UNDER SECTION 7.

**9. Misc.**

9.1. In addition to all methods permitted at law, notices may be given via email to either party's primary contact and shall be effective immediately upon sending provided that the sender is able to confirm that the message was successfully delivered via its email provider's standard processes.

9.2. This is the entire agreement of the parties and it cannot be amended except with a writing signed by the parties. The parties may execute this Agreement using an electronic signature service and each pdf of the fully executed Agreement that is provided to the parties by the service will constitute a valid original. Neither party can assign this Agreement without the written consent of the other. If any provision of this Agreement is unenforceable, the validity of the remaining provisions will not be affected. No waiver will be effective unless it is in an explicit writing and signed by the waiving party. Sections 3.4 - 3.6, 4 and 6-9 will survive expiration or termination of this Agreement. This Agreement is governed by the laws of New York State, excluding conflicts of laws principles. The parties will resolve any disputes in the state or federal courts located in the Southern District of New York, to whose exclusive jurisdiction and venue they irrevocably submit.

9.3. Neither party will be liable for failure or delay in performing its obligations due to causes beyond its reasonable control, including eg, events outside of human control, terrorism, war, fire, earthquake, or internet failure (each a "Force Majeure Event"); provided that the party relying upon this provision: (i) gives prompt written notice thereof, and (ii) takes all steps reasonably necessary to mitigate the effects of the Force Majeure Event; provided further, that in the event a Force Majeure Event extends for a period in excess of thirty (30) days in the aggregate, the party awaiting performance may immediately terminate this Agreement upon written notice. Moat does not guarantee any Moat Service will be operable at all times or during any down time caused by outages to any public Internet backbones; networks or servers, any failures of equipment, systems or local access services, or for previously scheduled maintenance.

9.4. The Parties hereby represent and warrant that the individual executing this Agreement on their behalf is authorized to sign for them and that each Party will comply with and be bound by its terms and conditions as if a signatory hereto.

9.5. This Agreement shall be construed, interpreted and enforced in accordance with and shall be governed by the laws of the State of New York applicable to agreements entered into and wholly to be performed therein, with both parties hereby submitting to the exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City. Any controversy between the parties regarding any of the terms, provisions or conditions of this Agreement or otherwise arising out of or relating to this Agreement, shall be settled by arbitration in accordance with the current commercial arbitration rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s), including legal fees and costs of the prevailing party, may be rendered by any court having jurisdiction thereof. The location of the arbitration shall be in New York, New York.

**Signed and Agreed:**

**Moat Inc:**

DocuSigned by:

*Jonah Goodhart*

By: \_\_\_\_\_

72C463CCB0FB42F...

Print Name: \_\_\_\_\_

Jonah Goodhart

Title: \_\_\_\_\_

CEO

**Company**

*Carta Media LLC*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

*Kyan Brown*

Title: \_\_\_\_\_

*Director, Business Development*



**MASTER SERVICES AGREEMENT****MOAT PRO**

This Master Services Agreement ("**Master Services Agreement**" or "**MSA**") is made as of the date indicated below (the "Effective Date") by and between Moat Inc., a Delaware corporation, with its principal place of business at 126 5<sup>th</sup> Avenue, 7<sup>th</sup> Floor, New York, NY 10011 ("Moat") and "Company" (defined below), (each a party and collectively the "Parties").

**COMPANY:**

<b>Company Name:</b>	Gawker Media, LLC	<b>Primary Contact:</b>	Ryan Brown
<b>Doing Business As (DBA):</b>		<b>Phone:</b>	212-655-9524
<b>Address Line 1:</b>	210 Elizabeth Street, 4 <sup>th</sup> Fl	<b>Email:</b>	ryan@gawker.com
<b>City, State, Postal Code:</b>	New York, NY 10012		
<b>TIN:</b>		<b>Billing Contact:</b>	Jessica Hermann
<b>Country:</b>	USA	<b>Phone:</b>	212-655-9524
		<b>Email:</b>	jessica@gawker.com

**Effective Date:** July 1, 2014

**Base License Fee:** \$2,500 per month (plus applicable sales tax);

**Setup Fee:** waived for Gawker Media

**Authorized Users:** up to 5 authorized users included with base license fee;

**Primary Site(s):** <http://www.gawker.com>, <http://www.kinja.com>, <http://www.deadspin.com>, <http://www.kotaku.com>, <http://www.jezebel.com>, <http://www.io9.com>, <http://www.jalopnik.com>, <http://www.gizmodo.com>, <http://www.lifehacker.com>

**Edition:** Publisher

The parties agree as follows.

- Term.** The "Term" of this Agreement begins from the Effective Date and lasts for 12 months. The Agreement shall automatically renew for successive terms of 12 months. The Company shall have the right to terminate this Agreement by providing 90 days written notice
- Fees.** Fees for use of the Moat Intelligence Platform are outlined above. All fees are stated exclusive of sales tax and value added tax (if any). Company shall be liable for all fees accrued during the Term. From time to time, Moat may adjust fees, provided that the Company is given 90 days notice before any adjustments are made, and the Company shall have the option to terminate Agreement upon the effective date of the change.
- Moat Intelligence Services.**

Under the terms above, Moat will provide Company, during the Term of the agreement, with access to advertiser and publisher ad intelligence resources (the "Services"), which may be updated and modified from time-to-time. You understand and agree that the Service is provided "AS-IS" and that Moat assumes no responsibility for the timeliness, deletion, and/or mis-delivery of Service.

3.1. Company shall have the limited right to use the resources from the Moat services to research and analyze advertisement placement and location on various publishers.

3.2. Company grants to Moat a worldwide, non-exclusive, royalty-free license to copy and use any webpage and advertisement content solely to the extent necessary for Moat to provide the Service.

3.3. As between Company and Moat, Company will own all right, title and interest in its trademarks, service marks and other brand features. As between Moat and Company, Moat will own all right, title and interest in everything related to the Services, including but not limited to all software, technology and processes and all derivatives works and improvements thereto. Company grants to Moat an irrevocable, perpetual, worldwide royalty free right to include Company's name in Moat's marketing, promotional materials and customer lists.

Company will not (a) copy, reproduce, modify, damage, disassemble, decompile, reverse engineer or create derivative works of any Moat Service; (b) reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the Service use of the Service, or access to the Service. Company agrees to access the Service only through human use of the provided web interface.

3.4. **Authorized Users and Accounts.** Company will receive a password and account designation upon completing the Service's registration process that will permit each Authorized User and only the specified Authorized User to access the Service. The Company shall not be permitted to access the Service with more Authorized Users than specified. All Authorized Users must be employees or contractors of the Company. Company is responsible for maintaining the confidentiality of the password(s) and account(s) and is fully responsible for all activities that occur under Company's password(s) or account(s). Company agrees to (a) immediately notify Moat of any unauthorized use of any password or account or any other breach of security, and (b) ensure that each Authorized User exits from their account at the end of each session. Moat cannot and will not be liable for any loss or damage arising from your failure to comply with this section. If an Authorized User's password and account designation is used to access the service from more than one location at once, or from multiple locations in sequence you acknowledge that the Moat system may prevent the user from accessing the service until their identity can be confirmed.

4. **Payment.** Company will pay Moat within 30 days of each invoice date. [deleted provision re: credit check b/c not relevant here and deleted section re: reimbursement of taxes/fees. If you envision specific taxes/fees, let us know what they are so that we can discuss]

5.

6. **Termination.** Either party may terminate this Agreement for any reason with ninety (90) days written notice.

7. **Confidentiality.** "Confidential Information" means any information relating to or disclosed in the course of the Agreement, which should be reasonably understood to be confidential. The receiving party will use the same care to protect Confidential Information as it uses for its own similar information, but no less than reasonable care, and will use Confidential Information only for the purpose of fulfilling its obligations under this Agreement. The receiving party will promptly return or destroy the other party's Confidential Information upon request. "Confidential Information" does not include information that (a) is or becomes part of the public domain through no fault of the receiving party; (b) was already in possession of the receiving party; or (c) was independently developed by the receiving party without violation of this Section. If a receiving party is required to disclose Confidential Information by law, the receiving party will promptly notify the disclosing party.

8. **Mutual Indemnity.** Company will indemnify, defend, and hold harmless Moat, its officers, directors, shareholders, agents, employees and representatives against all liability, claims, and damages that Company's collection or use of the Data or that Moat's performance of the Services violates any third party rights, except for claims of that the technology that provides the Services infringes any third party intellectual property rights. Moat will indemnify, defend, and hold harmless Company, its parents, subsidiaries, affiliated companies, officers, directors, shareholders, agents, employees and representatives against all liability, claims, and damages that Moat's technology that provides the Services infringes any third party intellectual property rights.

9. **Disclaimers and Limit of Liability:**

MOAT, ITS AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONTRACTORS AND AGENTS (the "PROGRAM PARTIES") MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. THE SERVICES ARE PROVIDED AS IS AND AS AVAILABLE, WITH NO WARRANTY AS TO CONTINUOUS SERVICE OR DELIVERY OF ANY AD OR IMPRESSION.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS).

MOAT Confidential

PROFITS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES AND RELATED SYSTEMS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR AMOUNTS OWED UNDER SECTION 3, THE TOTAL LIABILITY OF EACH PARTY ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE FEES OWED BY COMPANY FOR THE NINETY DAYS PRECEEDING THE DATE THE CAUSE OF LIABILITY AROSE.

10. Misc.

10.1. In addition to all methods permitted at law, notices may be given via email to either party's primary contact and shall be effective immediately upon sending provided that the sender is able to confirm that the message was successfully delivered via its email provider's standard processes.

10.2. This is the entire agreement of the parties and it cannot be amended except with a writing signed by the parties. The parties may execute this Agreement using an electronic signature service and each pdf of the fully executed Agreement that is provided to the parties by the service will constitute a valid original. Neither party can assign this Agreement without the written consent of the other, except for an assignment in the event of a merger or acquisition involving the assigning Party. If any provision of this Agreement is unenforceable, the validity of the remaining provisions will not be affected. No waiver will be effective unless it is in an explicit writing and signed by the waiving party. Sections 3.4 - 3.6, 4 and 6-9 will survive expiration or termination of this Agreement. This Agreement is governed by the laws of New York State, excluding conflicts of laws principles. The parties will resolve any disputes in the state or federal courts of New York, to whose exclusive jurisdiction and venue they irrevocably submit.

10.3. Neither party will be liable for failure or delay in performing its obligations due to causes beyond its reasonable control, including eg, acts of God, terrorism, war, fire, earthquake, or internet failure. Moat does not guarantee any Moat Service will be operable at all times or during any down time caused by outages to any public Internet backbones, networks or servers, any failures of equipment, systems or local access services, or for previously scheduled maintenance.

10.4. The Parties hereby represent and warrant that the individual executing this Agreement on their behalf is authorized to sign for them and that each Party will comply with and be bound by its terms and conditions as if a signatory hereto.

10.5. This Agreement shall be construed, interpreted and enforced in accordance with and shall be governed by the laws of the State of New York applicable to agreements entered into and wholly to be performed therein, with both parties hereby submitting to the exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City. Any controversy between the parties regarding any of the terms, provisions or conditions of this Agreement or otherwise arising out of or relating to this Agreement, shall be settled by arbitration in accordance with the current commercial arbitration rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s), including legal fees and costs of the prevailing party, may be rendered by any court having jurisdiction thereof. The location of the arbitration shall be in New York, New York.

10.6.

Signed and Agreed:

Moat Inc.

By: Jonah Goodhart

Print Name: Jonah Goodhart

Title: CEO

Company

By: [Signature]

Print Name: Kyle Brown

Title: Director, Business Development

# MOAT

Debbie Dillon Finance

debbie.dillon@moat.com | p: 646-374-4727

63 Madison Ave, 15th Floor, New York, NY 10016

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Moat Inc.  
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