

# LYCONET AGREEMENT

## for Independent Lyonet Marketers

Version: March 2018

### Preamble

Lyoness Europe AG with registered office at Bahnhofstraße 22, CH-9470 Buchs, Switzerland ("**Lyonet**") operates a marketing programme ("**Lyonet Marketing Programme**").

An essential part of this marketing programme is the **Lyonet Agreement** for Independent Lyonet marketers ("**Lyonet Agreement**"), which enables participants to promote the distribution and use of the Cashback World Programme as self-employed, commercial sales agents, thereby obtaining benefits. Following the conclusion of the **Lyonet Agreement** with Lyoness Europe AG ("**Lyonet**"), participants acquire the status of an Independent Lyonet Marketer ("**Marketer**")

The Cashback World Programme is a shopping community operated by myWorld International Limited, with registered office at 40 Bank Street, London EC14 5NR, UK, together with its subsidiary companies and cooperation partners, through which the participants ("**Members**"), may purchase goods and services from **Loyalty Merchants** ("**Loyalty Merchants**"), to receive benefits.

### 1. Subject of the contract

1.1 In accordance with this **Lyonet Agreement**, the **Marketer** is entitled to promote the distribution and use of the Cashback World Programme and the **Lyonet Marketing Programme** in accordance with this **Lyonet Agreement**, if the respective requirements under clause 4 are fulfilled,

- (a) by gaining new **Members** and handling existing **Members**,
- (b) by gaining new **Marketers** and handling existing **Marketers** and
- (c) by gaining new **Loyalty Merchants** and handling existing **Loyalty Merchants**.

1.2 "**Loyalty Merchants**" are **Loyalty Merchants** that sell goods or services exclusively to consumers and

- (a) do not have more than 100 full time employees,
- (b) make no more than 9 million GBP in sales per year,
- (c) do not have more than 10 branches and do not have a transnational branch structure,
- (d) do not operate or use a regular customer loyalty programme (with a personal loyalty card),
- (e) are not franchises and are
- (f) not controlled by a foreign parent company.

In addition, **Loyalty Merchants** that do not meet this requirement are also regarded as **Loyalty Merchants** if myWorld International Limited and its group companies and cooperation partners declare this in writing on a case-by-case basis. The purchase and management of **Loyalty Merchants** that do not qualify as **Loyalty Merchants** within the meaning of clause 1.2 are not part of this **Lyonet Agreement**. The **Marketer** is prohibited from conducting initiation talks or negotiations with such companies or from engaging in any other promotional activity to recruit them.

1.3 In return for these activities, the **Marketer** receives remuneration in accordance with the Lyonet Earnings Plan in **Annex 1** to this **Lyonet Agreement** (see also Note 8).

### 2. Agreement

The sales activities of the **Marketer** are governed exclusively by this **Lyonet Agreement**, including all annexes.

### 3. Legal relationship

3.1 **Lyonet** grants the **Marketer** a non-exclusive right to act as a sales representative for **Lyonet** under the terms of this **Lyonet Agreement**. The **Marketer** is not subject to regional restrictions about the performance of his sales activities, but must always ensure at his own responsibility that he fulfils the legal requirements applicable in the respective country; the **Marketer** fully indemnifies **Lyonet** from any claims of third parties.

3.2 The **Marketer** acts in the context of commercial activity as an independent entrepreneur. Between **Lyonet**, i.e. Lyoness Europe AG, and the **Marketer**, no work or service agreement of any kind whatsoever is concluded. The **Marketer** provides his contractual services exclusively in the context of an activity which is separate, autonomous and legally independent of **Lyonet** and is not bound to instructions from **Lyonet**.

3.3 The **Marketer** is expressly prohibited from giving the impression during business that he is an employee or other agent of **Lyonet**, i.e. Lyoness Europe AG, or a related company.

3.4 The **Marketer** is prohibited from representing **Lyonet**, and he is not authorised to conclude contracts or to receive benefits on behalf of **Lyonet**, i.e. Lyoness Europe AG. Similarly, the **Marketer** is prohibited from representing other group companies of the Lyoness or myWorld group. Infringement of this clause 3.4 will entitle **Lyonet** to terminate this **Lyonet Agreement** for good cause in accordance with clause 13.2.

3.5 Only one registration (i.e., one identification number) is permitted for each natural or legal person. The registration must be made stating the residential or business address (registered office) of the **Marketer**. Any multiple registrations made in order to gain unjustified benefits under the Lyonet Earnings Plan entitles **Lyonet** to terminate the contract for good cause and to withdraw the benefits obtained in this way. For multiple registrations, the last registered identification numbers will be deleted. Benefits under the Lyonet Earnings Plan, which have arisen only through a multiple registration, will lapse.

#### 4. Precondition for the activity and the compensation claim

4.1 The conclusion of this **Lyonet Agreement** requires natural persons to have reached the age of majority.

4.2 The **Marketer** must act - as a condition for the establishment of his remuneration claim - in the exercise of a commercial activity. In doing so, the **Marketer** must independently ensure that his commercial activity is duly registered and that he has the necessary regulatory approvals to practice his commercial activity. He must ensure the proper payment of taxes and levies and indemnifies **Lyonet** against claims of third parties.

4.3 The advertising of new **Loyalty Merchants** requires the activation of myWorld International Limited with its affiliates and cooperation partners as well as separate training.

#### 5. Rights and obligations of the Marketer

5.1 The **Marketer** is entitled to use the organisational support of his third-party sales activities (e.g. assistance). The sales activity itself must always be carried out by the **Marketer** himself. The **Marketer** must ensure that the obligations of this contract are also met by such third parties.

5.2 The **Marketer** is required to make only such statements about **Lyonet**, a company affiliated with **Lyonet**, the **Lyonet** business model and its distribution and marketing as are in accordance with the official **Lyonet** documentation.

5.3 As soon as the **Marketer** becomes aware of a possible breach of the provisions of this **Lyonet Agreement** by another **Marketer**, he must notify **Lyonet** without delay.

5.4 If the **Marketer** intends to carry out chargeable events or otherwise offer chargeable services to third parties regarding the Cashback World Programme or the **Lyonet Marketing Programme**, he must first obtain the consent of **Lyonet** in writing (email is sufficient).

#### 6. Member registration

6.1 The **Marketer** can use the original registration form to promote new **Members** of the Cashback World Programme to spread the Cashback World Programme. He must consider that he has no power of representation and therefore is not entitled to accept declarations under the Cashback World Programme. Only with acceptance of the registration application by the respective contractual partner of the **Member** is **Membership** in the Cashback World Programme confirmed.

6.2 The **Marketer** has the following obligations when registering new **Members**:

6.2.1 The **Marketer** must ensure that the Cashback World Standard Terms ("**Cashback World T&Cs**") are available to the **Member** in the place where the registration takes place and the **Member** can inspect the *Cashback World T&Cs*. **Lyonet** will provide the **Marketer** with the required Cashback World terms in the required country version at [www.lyconet.com](http://www.lyconet.com) (log-in area) for download. The requisite registration applications in printed form will be sent directly to **Lyonet** after ordering.

6.2.2 When completing the registration form and thus before concluding **Membership**, the **Marketer** must present to the **Member** without request the *Cashback World terms* and expressly point out that they are an indispensable part of the contract to be concluded.

6.2.3 The **Marketer** must enter his data in the designated area before completing the registration on the registration form. For the registration of the **Member** to be finally concluded, it is necessary for the **Marketer** to upload and adequately recognisable photograph of the registration form, which has been completed in full and has been signed by the **Member**, in the designated area.

6.2.4 In addition, the **Marketer** agrees to always have the current Cashback World terms in copied form available and to hand in sufficient numbers and to submit them at the request of the **Member**.

6.2.5 The **Marketer** must keep all registration forms securely in the original and make them available at the request of **Lyonet** at any time.

6.2.6 **Lyonet** reserves the right to carry out random checks of the registration forms.

6.3 Liability of the **Marketer** when registering **Members**:

6.3.1 The **Marketer** is fully liable for compliance with the provisions of this clause 6. This liability also extends to all persons whom the **Marketer** uses to fulfil his contractual obligations to the same extent as for conduct attributable to third parties.

- 6.3.2 The **Marketer** must record all data of the **Members** to be registered with the utmost care and is liable with any breaches of this obligation for all resulting disadvantages.
- 6.3.3 Any breach of clause 6 by the **Marketer** will entitle **Lyonet** to extraordinary termination of the entire contractual relationship.

## 7. Communication material

- 7.1 **Lyonet** provides the **Marketer** with the advertising and information material (documents, catalogues, presentations, etc.) ("**Communication Material**") required by the **Marketer** to carry out his sales activities under this **Lyonet Agreement** for download free of charge at [www.lyconet.com](http://www.lyconet.com) (login area).
- 7.2 The **Marketer** may only use the communication material authorised by **Lyonet** at any time by making it available at [www.lyconet.com](http://www.lyconet.com). Before using the communication material, the **Marketer** must check whether it complies with the current version. The culpable use of unauthorised communication material by the **Marketer** will entitle **Lyonet** to terminate this **Lyonet Agreement** without notice for good cause in accordance with clause 13.2.
- 7.3 In the event of termination of this **Lyonet Agreement**, the **Marketer** will, if necessary, immediately destroy the communication material available to him and confirm the destruction in writing to **Lyonet**.
- 7.4 Publications and advertisements, as well as the use of registered and/or entered trademarks of **Lyonet** or companies affiliated with **Lyonet**, such as the company logo and the brands **Lyonet**, Lyonesse, Child & Family Foundation, Greenfinity Foundation, etc., require the written consent of **Lyonet**. The publication and use of registered and/or entered trademarks of myWorld International Limited with its affiliates and cooperation partners such as Cashback World or myWorld requires the written consent of myWorld International Limited with its affiliates and cooperation partners. This also applies to use over the Internet or other electronic media. The right of the **Marketer** to use the communication material authorised by **Lyonet** according to clause 7.2 remains unaffected.
- 7.5 The **Marketer** indemnifies **Lyonet** from claims of third parties, which assert these against **Lyonet** because of a culpable infringement of its protected rights by the **Marketer**.

## 8. Lifeline

- 8.1 The "lifeline" of each **Marketer** consists of the **Marketers** or **Members** recruited by him, the **Marketers** or **Members** recruited by them (second level) and the **Marketers** or **Members** recruited by the **Marketers** or **Members** of the second level (third level), etc. The Lifeline thus consists of all **Marketers** or **Members** irrespective of which level the **Marketer** can be assigned to through his recommendations and all follow-up recommendations. The lifeline is also called the "downline". The upline consists of the referrers. The next **Marketer** in the upline is called a "coach" and the next **Marketer** above him is called a "senior coach".
- 8.2 The remuneration of the **Marketer** under the Lyconet Earnings Plan is calculated considering all purchases made by all **Marketers** or **Members** at any level of their lifeline. Purchases from another lifeline will not be considered in favour of the **Marketer** (even if the **Marketer** has arranged for the conclusion of the **Lyonet Agreement** with the **Marketer**).
- 8.3 The lifeline is in principle invariable and compliance with it is a principle of the **Lyonet Marketing Programme** for the protection of all **Members** and **Marketers**. **Marketers** who have not been eligible for compensation in the last 12 months can change their referrer by appointing another **Marketer** with their consent to **Lyonet** as the referrer. If the **Marketer** is also a **Member**, it is only permissible to change the referrer if, in addition, the criteria for a change as a **Member** are met. This means that no purchases have been made with **Loyalty Merchants** over a period of six months and there is no entitlement to compensation in the last twelve months. In this case, the **Marketer** or **Members** recruited directly or indirectly by the alternate **Marketer** (irrespective of which tier) remain with the original referrer in their original position. The eligibility is defined and regulated in the Lyconet Earnings Plan in Annex 1.
- 8.4 If a **Marketer** terminates his participation in the **Lyonet Marketing Programme** or if he changes the lifeline according to clause 8.3. of this agreement, or as a **Member**, this will not affect the position of any other **Marketer** or **Member** of the affected lifeline (upper or lower).
- 8.5 The transfer of the identification number (ID) to third parties (e.g. due to a sale of the identification number) can in principle only take place with the written consent of **Lyonet** and simultaneous transfer of all existing contractual relationships with the third party or between the **Marketer** and the Lyonesse group and (at most) the myWorld group. However, if the **Marketer** dies, the contractual relationships (including his ID) existing between him and the Lyonesse group and (if applicable) myWorld group will pass to his heirs in accordance with applicable inheritance law.

## 9. Remuneration

- 9.1 The **Marketer** will be remunerated for his **Lyonet** activities under the Lyconet Earnings Plan in [Annex 1](#). The **Marketer** has no claim against **Lyonet** for compensation for expenses incurred in the performance of its sales activities (for the reimbursement of travel, trip, material or personnel costs).
- 9.2 In addition to compensation under the Lyconet Earnings Plan, **Lyonet** may, at its sole discretion, also remit additional premiums. However, there is no entitlement to this.
- 9.3 All payments are calculated weekly or monthly, considering all the Shopping Points credited under the **Lyonet Marketing Programme** (in accordance with the Lyconet Earnings Plan in [Annex 1](#)). In the statements that are made accessible to the **Marketer** via his login area at [www.lyconet.com](http://www.lyconet.com), **Lyonet** provides all information that is relevant for the remuneration of the **Marketer** according to the Lyconet Earnings Plan.

9.4 The **Marketer** must immediately review this statement and make any objections in writing to **Lyonet** no later than one week after the receipt of the invoice **Lyonet.com** and in the form determined by **Lyonet**. Infringement of this obligation may entitle **Lyonet** to a claim for damages.

9.5 The fee payable to the **Marketer** under the **Lyonet Marketing Programme** will be paid weekly to the **Marketer's** account if the sum of the payment entitlements reaches an amount of 9 GBP.

## 10. Secrecy and confidentiality

10.1 The **Marketer** will maintain secrecy, even after the termination of this **Lyonet Agreement**, in respect of all business and commercial activity secrets of **Lyonet** which have been entrusted or made known to him by **Lyonet** as such during its activities.

10.2 Documents relating to internal business transactions entrusted to the **Marketer** must be returned to **Lyonet** immediately at its request in accordance with the order, but no later than on the termination of this **Lyonet Agreement**.

10.3 The **Marketer** will also impose these secrecy and confidentiality obligations on his assistants.

## 11. Data protection

11.1. To the extent necessary for the implementation of the **Lyonet Agreement**, in particular for the calculation of the Shopping Points and remuneration according to the Lyonet Earnings Plan in Annex 1, Lyoness Europe AG, as data protection officer, collects, stores and processes personal or company-related data as well as data on sales activities of the **Marketer**.

11.2. All requests for information, changes and deletion of data may be addressed to Lyoness Europe AG, Bahnhofstrasse 22, 9470 Buchs, Switzerland or by email to [international@lyonet.com](mailto:international@lyonet.com). Further data protection-relevant provisions when using the **Lyonet** website can be found in the privacy policy at [www.lyonet.com](http://www.lyonet.com).

11.3. **Lyonet** uses internationally recognised security technologies to protect **Marketers'** data against unauthorised access.

11.4. If the **Marketer** uses additional IT supported services and **Lyonet** processes personal data entered by the **Marketer** in this connection, the parties will conclude a contract data-processing agreement.

## 12. Compete agreement/non-solicitation

12.1 The **Marketer** will not, for any part of the duration of this **Lyonet Agreement**, directly or indirectly, or through any third party, without the prior written consent of **Lyonet**, provide such services to a competitor providing services that are identical or like those of **Lyonet** or manage or participate in a rival company or otherwise support or advise it.

12.2 The same applies to competing companies that are generally active in the network (structure sales) sector.

12.3 The activities of the **Marketer** for competing undertakings already existing at the time of conclusion of this **Lyonet Agreement** and announced in text form (email) are excluded from the above competition agreement.

12.4 The **Marketer** will also refrain, during the term of this **Lyonet Agreement**, from soliciting **Marketers**, **Members** or Affiliates, other Distributors, or even attempting to do so.

12.5 If the above provisions of this clause 12 are culpably infringed by the **Marketer** or his assistants, **Lyonet** will be entitled to demand desistance from the relevant acts. This will not affect the right of **Lyonet** to terminate this **Lyonet Agreement** and to claim any imminent or incurred damage.

## 13. Duration and termination of this Lyonet Agreement

13.1 The **Lyonet Agreement** is concluded for an indefinite term and may be terminated by both parties subject to a 30-day period of notice.

13.2 Both parties have the right to terminate this **Lyonet Agreement** at any time for good cause without notice. A good cause for termination by **Lyonet** is present especially in the following cases:

- (a) The **Marketer** deliberately makes false statements when concluding this **Lyonet Agreement**.
- (b) The **Marketer** uses unauthorised communication material in breach of clause 7.2.
- (c) The **Marketer** uses registered and/or entered trademarks of **Lyonet** or companies affiliated with **Lyonet** in breach of clause 7.4.
- (d) The **Marketer** infringes the prohibition on competition or non-solicitation under clause 12 or infringes his confidentiality and confidentiality obligations under clause 10.
- (e) The **Marketer** repeatedly provides wrong advice about the Cashback World Programme or the **Lyonet Marketing Programme**. An indication of wrong advice is if an above-average number of contracts mediated by him (including **Members**, **Marketers** or **Loyalty Merchants**) is contested by the mediated supplier, revoked or regularly terminated at the next possible date.
- (f) The **Marketer** operates a commercial resale of vouchers of the **Loyalty Merchants**.
- (g) The **Marketer** conducts a chargeable event without the written consent of **Lyonet** or offer third party chargeable services regarding the Cashback World Programme or the **Lyonet Marketing Programme**.

- (h) The **Marketer** has been convicted of a deliberate offence either committed against **Lyconet** or a company affiliated with **Lyconet** and/or in connection with the conduct of its distribution activities under this **Lyconet Agreement** or that which has a material connection with the activity of the **Marketer** under this **Lyconet Agreement** (e.g. property offences such as fraud) or which is so serious that **Lyconet** can no longer be expected to cooperate further because of the destruction of the necessary basis of trust or a threat of loss of reputation.
- (i) The **Marketer** is repeatedly in arrears with the fulfilment of a contractual payment claim or a not inconsiderable part of it.
- (j) The financial situation of the **Marketer** deteriorates so significantly that the sustainable solvency of the **Marketer** can be called into question by concrete indications.
- (k) In addition to the significant damage to the economic interests or the reputation of **Lyconet** or the **Loyalty Merchant**, in particular the breach of essential contractual obligations is considered as a good cause.
- (l) A termination for good cause for a breach of contract as a rule requires the unsuccessful expiry of a specified deadline for remedial action or a previous unsuccessful warning. However, setting a deadline or warning is unnecessary in particular if the respective infringement is so serious that **Lyconet** can reasonably no longer be expected to continue this **Lyconet Agreement** for that very reason.

13.3 Every declaration of termination must be in writing. The benchmark for the observance of the period is the receipt of the letter of termination.

13.4 Any participation in the Cashback World Programme remains unaffected by the termination of this **Lyconet Agreement**.

#### 14. Effects of termination

14.1 The remuneration already paid will remain with the **Marketer**. In addition, the **Marketer** will be entitled to disbursements of the remuneration for which all conditions under the Lyconet Earnings Plan have already been met at the time of termination. Further claims of the **Marketer** against **Lyconet** are excluded, subject to mandatory legal claims.

14.2 Unless otherwise agreed, payments made by the **Marketer** (for example for services or voucher orders) will not be refunded. Expenses of the **Marketer** will not be refunded.

#### 15. Liability

15.1 **Lyconet** is fully liable for damages resulting from injury to life, limb or health, which are based on a wilful or negligent breach of duty by **Lyconet**. **Lyconet** is also fully liable for other damages that are based on intentional or grossly negligent breach of duty by **Lyconet**.

15.2 For damages due to simple negligent infringement of such obligations as are fundamental for the proper and regular performance of the contract and on the fulfilment of which the **Marketer** may accordingly rely and does rely (cardinal obligations), **Lyconet** is only partially liable for typical and foreseeable damage.

15.3 Other claims for damages are excluded, subject to clause 15.5 This applies if **Lyconet** is not at fault.

15.4 If the liability of **Lyconet** is limited or excluded, the limitations or exclusions also apply to the personal liability of employees, legal representatives and vicarious agents of **Lyconet**.

15.5 The limitations of liability and disclaimers set out in clause 15 will not affect the liability of **Lyconet** under the mandatory statutory provisions of the Product Liability Act, the fraudulent concealment of a defect or the issue of a guarantee for the quality of an object.

#### 16. Changes

16.1 The **Marketer** undertakes to notify **Lyconet** immediately in writing of any changes to his essential data. This obligation relates to changes in his address and bank details. In addition, the **Marketer** undertakes to notify **Lyconet** of any payment difficulties, but in any case, of impending insolvency or imminent over-indebtedness. If changes to the business address are not disclosed immediately, statements that **Lyconet** sends by post to the last known address will nevertheless be deemed to have been received by the **Marketer**.

16.2 In individual cases, individual agreements will have priority over this **Lyconet Agreement**. The content of such agreements will be governed by a written contract or written confirmation from **Lyconet**. No verbal agreements have been concluded between the parties. In addition, **Lyconet** is entitled to send contract notices and information necessary for the performance of the contract to the **Marketer** by text message or email, provided that the **Marketer** gives the corresponding contact details and does not contradict them.

16.3 Changes to this agreement and any other contractual agreement between the **Marketer** and **Lyconet** notified to the **Marketer** in writing to the address or email address given by the **Marketer** will be deemed to have been accepted by the **Marketer** if the **Marketer** does not object to their validity within 30 days of receipt of the change notice in writing. **Lyconet** will inform the **Marketer** at the beginning of the period that his consent to the notified changes to the agreement is deemed to be given if he does not contradict its validity within the set deadline in writing. Changes to this agreement will be deemed to have been accepted by the **Marketer** only if this notice has been given.

#### 17. Choice of law and legal venue

17.1 This agreement is governed by substantive Swiss law, to the exclusion of the conflict of laws rules of international private law and the UN Sales Convention.

- 17.2 The exclusive legal venue for all disputes arising out of or regarding this **Lyonet Agreement** is Buchs, Canton St. Gallen (Switzerland).
- 17.3 Unless the proceedings are preceded by a public arbitration procedure, the parties are required to hold a negotiation meeting before the instigation of any legal proceedings at the registered office of Lyoness Europe AG at Bahnhofstraße 22, CH-9470 Buchs Switzerland.

**18. General provisions**

- 18.1 The **Marketer** is not entitled to assign this **Lyonet Agreement** or the rights and obligations established between the parties based on this **Lyonet Agreement** to a third party or otherwise, including by way of universal succession, without the prior written consent of **Lyonet**. However, if the **Marketer** dies, the contractual relationships existing between him and **Lyonet** will be transferred to his heirs under the applicable law of succession. In addition, without the prior written consent of **Lyonet**, the **Marketer** is not entitled to encumber any existing rights with a lien.
- 18.2 The right of the **Marketer** to offset claims of **Lyonet** is excluded. This does not apply in the case of mutual, interdependent claims or if the **Marketer** offsets against an undisputed or legally enforceable claim.
- 18.3 Should any provision of this **Lyonet Agreement** be or become wholly or partially invalid or unenforceable, this will not affect the validity or enforceability of the remaining provisions.