

GENERAL TERMS AND CONDITIONS (T&CS) FOR PUBLISHERS

For participation in partner programmes on the belboon online platforms

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PREAMBLE

belboon GmbH is one of the three leading affiliate networks in the German, Austrian and Swiss markets and is focused on expanding its commercial activity internationally. Around 1,800 partner programmes, and publishers from approximately 46 countries are active on the network. The company is the first global affiliate network to transfer its business model to the mobile internet. Publishers and advertisers enjoy the online and mobile benefits of the network's outstanding performance and extensive reach as well as market-leading technologies combined with a superb level of service which is intrinsic to the network. belboon was founded in 2002 and is based in Berlin.

1. SCOPE / DEFINITIONS

1.1. The following general terms and conditions are an integral part of every contract between belboon GmbH, Weinmeisterstr. 12-14, D-10178 Berlin (hereinafter referred to as: belboon) and the contracting party.

1.2. belboon renders its services, performances and deliveries for publishers based exclusively on these general terms and conditions for publishers. Moreover, belboon is entitled to delegate service performance or parts thereof to be carried out independently by third-party providers or subcontractors.

1.3. The validity of these general terms and conditions for publishers extends to all services provided for publishers by belboon. By commissioning services from belboon, the publisher recognises that they are bound by these general terms and conditions for publishers.

1.4. The relevant valid price list for belboon is also an integral part of the contract along with these general terms and conditions for publishers.

1.5. The following definitions apply in terms of the application and interpretation of the contract:

Publisher

A publisher is a natural or legal entity, owner or operator of digital media (websites, emails, SMS, MMS, or similar), who provides belboon with interlinked advertising space which is passed on to advertisers. A publisher is an entrepreneur (Section 14 of the BGB [Bürgerliches Gesetzbuch: German Civil Code]) and not a consumer (Section 13 of the BGB).

belboon

Using its partner programme network, belboon transmits promotional material from advertisers on digital media from publishers. In order to do this, belboon enters framework agreements with these parties, provides the technical infrastructure and logs the services rendered.

Double opt-in

The “double opt-in“ means that inclusion in a subscription list takes place in two stages:

1st step: by request the interested party receives an email notification containing a personal confirmation link.

2nd step: the interested party is only added to the subscription list when they actively click on this confirmation link, thereby giving their confirmation.

Lifetime commission

With lifetime commission, the customer is recruited just once by the publisher. The publisher receives a commission for this one-off recruitment, which is limited to the lifetime of the relevant programme. Once the relevant programme lifetime is over, the lifetime commission also comes to an end.

Advertiser

As a rule, the advertiser is a company which communicates via belboon, advertises on publishers' mobile and digital media and can be charged by belboon based on the relevant applicable price list and, in the case of successful advertising, in accordance with the agreed conditions.

Contracting partners

belboon's contracting partners may be both publishers and advertisers.

Advertising material

Any form of advertising material (e.g. banners, texts, flash animations etc.) which the advertiser makes available to belboon for promotional purposes.

Advertising platform

A digital medium (with advertising reach) stored as an advertising platform in belboon's online system; for instance a website, a specific newsletter distributor, a mobile web page etc., where a publisher may combine promotional materials from belboon partner programmes in one or more digital advertising spaces.

2. CONCLUSION OF CONTRACT AND PARTICIPATION

2.1. On its online portal belboon offers advertising material which advertisers have configured with the goal of disseminating it there via the partner programmes. The publisher can apply for these partner programmes.

2.2. The contract is concluded between belboon and the publisher themselves. In certain cases, belboon may put in place additional conditions for participation in a partner programme. Any such conditions apply in addition to the general terms and conditions for publishers here.

2.3. Publishers at belboon can only be legal entities as well as natural persons with full legal capacity. There is no entitlement to participation.

2.4. belboon can demand submission of a valid trading licence, excerpt from the trade register and/or proof of identify from the publisher.

2.5. If an employee at a legal entity registers it as a publisher, this requires submission of written authorisation. The same applies if some other third party (e.g. an agency) registers a publisher on their behalf.

2.6. A contract only takes effect when belboon confirms the publisher's registration.

2.7. When registering, the publisher must submit the requested information completely and truthfully. The publisher must independently update belboon's online system with any modifications promptly and no later than two weeks after a change has occurred. belboon must be notified in writing by the publisher of any changes in the contractual partnership, for instance due to a name change, takeover, relocation of the registered office etc., including relevant documentation such as trade register excerpts and/or trading licences.

2.8. The publisher agrees to the receipt of emails, SMS and other communication channels (e.g. What's App notifications) from belboon and the advertisers promoted by them.

2.9. The publisher undertakes to observe the applicable laws. Advertising platforms may only be registered if their content does not violate the applicable law in the Federal Republic of German or the standards of public decency. belboon is authorised to investigate the content on publishers' advertising platforms and, if necessary, to shut them down. This investigation may also be done using technological means.

2.10. The publisher guarantees that they will not store or link to any data which could damage belboon's technical infrastructure or operational procedures (e.g. viruses, trojans, or similar).

2.11. belboon remains free to additionally operate as a publisher, advertiser or agency.

2.12. belboon can advertise with the publisher as a reference, using the relevant name and logo on all media.

3. OBLIGATIONS

3.1. The publisher may only participate in the partner programme using advertising platforms for which they also possess the rights. If enrolment in the programme is sought for advertising platforms which are registered to a third party, the publisher must submit appropriate credentials to belboon when requested.

3.2. There is a ban on spam for publishers in terms of using the advertising materials and URL codes provided by belboon in emails. Sending unsolicited emails constitutes a violation of German competition law and each individual case can result in a caution from the recipient, competitors or consumer protection associations. The publisher is, therefore, prohibited from sending out unsolicited emails (spam) to third parties and from using the advertising materials or URL codes provided by belboon in such emails.

3.3. Consequently, the advertising materials and URL codes provided may only be used in emails, if the recipient has explicitly agreed beforehand to receive the emails and this can be demonstrated ("double opt in" process) and if the emails contain a legally valid imprint.

3.4. If specifically requested by belboon, the publisher is obliged to produce conclusive evidence of the double opt-in within 48 hours. Otherwise belboon is entitled to extraordinary termination in accordance with Section 10.7.

3.5. It is prohibited to automatically generate views, clicks, leads or sales by means of technical devices (including computer programmes) or through intentional or fraudulent misrepresentation. Any remuneration claims obtained unlawfully in this manner will subsequently be revoked by belboon.

3.6. Unless there is written authorisation from belboon, the publisher will not utilise any methods which place belboon commission cookies with no advertising media contact (view or click) with the end user.

3.7. The publisher undertakes to design their website (including all entries in search engines, directories or third party lists of links) in such a way that only valid clicks, leads and sales can be generated.

3.8. In addition, the publisher undertakes to design their website so that it complies with the applicable legal provisions, especially the requirements under consumer legislation.

3.9. Furthermore, the publisher pledges to avoid any portrayal of violence, sexual or pornographic content, or discriminatory statements or imagery in terms of race, gender, religion, nationality, disability, sexual orientation or age.

3.10. If the publisher does not promote the belboon network partner programmes via their own channels, but instead uses their own or a third party advertising network, they undertake to ensure that the promotional techniques used in this advertising network will comply with the rules and specifications for the belboon network and the relevant programme-specific participation conditions. The publisher additionally undertakes to provide the necessary information as envisaged in the belboon network. In the event of any infringements the publisher bears full liability.

4. ADVERTISING MATERIAL

4.1. Modifications to the advertising material and tracking codes generated by the system are prohibited. Exceptions to this can be agreed in writing with belboon for individual cases. The advertising materials provided by belboon must not be modified in either design or content or otherwise edited without prior agreement. The positioning and the frequency of inclusion can be set by the publisher at their own discretion.

4.2. In addition, the publisher is not permitted to use registered trademarks or other rights belonging to the advertiser in any way which belboon has explicitly precluded through the participation conditions for the relevant partner programme.

4.3. The publisher pledges that the advertising materials provided to them will only be included on the advertising platform they have specified and will not be passed on to third parties. In addition, the publisher must only use the advertising material in conjunction with participation in the partner programme.

4.4. The publisher will inform belboon of any substantive or technical modifications to their digital advertising spaces which go beyond anything expected when the contract was concluded. In this case the publisher will ensure that no further advertising is shown in the advertising space without prior agreement.

4.5. The publisher undertakes to avoid placing the advertising material provided in a context which could discernibly jeopardise the commercial interests of either belboon or their advertising client.

4.6. The publisher is obliged to remove the advertising material from their advertising space in the event of termination, closure or the expiry of a time limit or in other comparable circumstances. If the advertising material is not removed, or if the advertising material is no longer available, it will be automatically replaced by advertising material from belboon or from the partner programme for the affiliate network.

4.7. Information obtained from transmission of the advertising materials may only be used by the publisher in conjunction with the belboon partner programme. It is explicitly prohibited to pass on this information to a third party, or to use it for any other purpose. The publisher is responsible for correct inclusion of the advertising material. belboon accepts no liability for any adverse effects arising from incorrect inclusion.

5. REMUNERATION & INVOICING

5.1. The publisher is entitled to claim payment from belboon based on the applicable agreements made for the advertising programme. The publisher has a virtual account with belboon (credit account) which serves as intermediate storage for remuneration and allows for visual presentation. No interest is paid on available credit. A payment claim only exists provided the account for the relevant advertiser is in credit; something which is controlled by belboon as far as is technically possible. Unless explicitly mentioned in the statement, the sums displayed are always net amounts.

5.2. The remuneration conditions for the partner programme are published on belboon's website. In the event of a change to a condition, belboon will notify the publisher of this at least 48 hours before it comes into effect. If there is a compelling objective reason, this time limit can be shortened in specific individual cases.

5.3. belboon is entitled to discontinue or suspend a partner programme promoted by the publisher at any time, without providing justification.

5.4. Remuneration can be based on the following events, which may also be combined. All views, clicks, leads and sales are logged and verified based on the belboon transaction system, as far as is technically possible. Leads and sales are captured in accordance with the relevant partner programme configuration, including through cookies and/or session tracking.

Pay per view: the view is remunerated, if the publisher places, links and displays one or more supplied advertising item(s) for a partner programme on their advertising platform and if the relevant remuneration model for the partner programme makes provision for corresponding payment in such a case. A view is valid if the user calls up a publisher's advertising platform on which the advertising material is visibly incorporated in any location. Advertising material views which are generated on advertising platforms not registered in the belboon network are deemed to be invalid. Likewise, repeated displays following shortly one after the other of the same advertising material to the same user (user/IP) are not counted as valid.

Pay per click: for every click on supplied advertising material and the resulting visit to its page, the publisher is credited with a sum defined in the remuneration model for the relevant partner programme. A click is valid if the user (user/IP) voluntarily and consciously clicks on the advertising material provided in the publisher's advertising space. Advertising material clicks which are generated on web platforms not registered in the belboon network are not remunerated and nor are repeated clicks or clicks following quickly one after the other on the same advertising material by the same user (user/IP) or clicks which were generated through similar processes. Advertising media clicks which are associated with a compulsory action (forced clicks) are prohibited and not valid unless these have been explicitly authorised.

Pay per lead: a lead is a user action which is defined in the remuneration model for the relevant partner programme (e.g. newsletter subscription, registration, making contact with the advertiser). A lead is remunerated if the user clicks on the advertising material on the promoted digital medium and then completes the user action defined in the partner programme and implements the action in the long-term (e.g. they do not immediately revoke their newsletter subscription).

Pay per sale: a sale constitutes the conclusion of a contract between the user of a medium provided by the publisher and an advertiser regarding the commissioning of chargeable goods or services. A sale is valid, if a user clicks on the advertising material on the promoted digital medium for the advertiser and then enters into an effective agreement regarding a chargeable service and if there is provision for corresponding remuneration in the remuneration model for the relevant partner programme.

Lifetime commission: with lifetime commission, the publisher receives a commission which is limited to the relevant programme lifetime for the one-off promotion of a customer.

5.5. Claims by publishers for performance-related remuneration from belboon are subject to the following conditions:

- the successful event (view, click, lead, sale) occurred by virtue of the advertising space provided to belboon by the publisher.

- as part of the relevant partner programme, provision is made to grant commission for this event.

The event was successfully logged by belboon.

- there is no violation of these general terms and conditions for publishers nor any deception on the part of the publisher.

- in the event of a “sale”: the user takes delivery of the goods at the shipping destination, makes full payment and the withdrawal period granted to the customer in law or as defined by the advertiser has expired.

- the event commission has been confirmed in the belboon system and so has been definitively recognised.

5.6. belboon is not obliged to remunerate events which were prompted forcefully or through deceit, or any events generated automatically or based on some other manipulation (e.g. click generators). In these cases, belboon is entitled to lock the publisher’s credit account and to debit any amount which has already been obtained in a demonstrably unlawful manner and re-credit this sum to the advertiser.

5.7. belboon can only assure the publisher that the results shown in the accounts are complete insofar as this is technically possible for these kinds of entries given the tracking system used. If it is not technically possible to capture the data, e.g. where the user of the publishing medium has disabled cookies, there can only be a claim for remuneration if there is some other kind of suitable proof from the publisher and if this proof is accepted by the advertiser.

5.8. belboon reserves the right to invite individual publishers to participate in a partners-recruit-partners programme. In this partners-recruit-partners programme the recruiting publisher receives a credit to their virtual account for a proportion of the income generated for belboon by the publisher they recruited. If no agreement is made to the contrary, the recruiting partner is entitled to a share of 1% of the income from belboon with regard to the recruited publisher. Higher commission claims must be negotiated.

The entitlement to commission on the income from recruited publishers expires when the recruiting publisher deletes or terminates their publisher login with belboon or if this is blocked or terminated by belboon due to an infringement of the applicable law. This continues to apply even if the recruiting publisher sets up a new publisher login with belboon at a later time.

5.9. belboon creates an account statement (credit note procedure) for the publisher at least once per month and sends this via email. belboon pays the remuneration in the following month, provided the remuneration has reached the currency-specific payment threshold. If applicable, sums from the previous month are to be added. In the event of the account being terminated, the publisher can request manual payment even if the amount is below the payment threshold, however, for each payment a currency-specific handling fee will be due in accordance with the tariff list published online.

5.10. The publisher's credit note from belboon is created exclusively in PDF format and sent electronically via email. In addition, the credit notes are available for download in the publisher's login area at belboon. The publisher explicitly waives any entitlement to postal delivery of credit notes.

5.11. At the same time as each payment is made to the account specified by the publisher in the online system, a corresponding credit note will be sent for verification via email. If the publisher offers no objection within 3 days of receiving this credit note, the credit note is deemed to have been accepted. The virtual belboon account balance is reduced accordingly. Any bank transfer costs are borne by the publisher. Payment is made based on the virtual account. Pending (unconfirmed) commission is not paid out.

5.12. Value added tax is only paid out to the publisher, if appropriate evidence of an income tax deduction entitlement has been submitted. This must be renewed on an annual basis. If the publisher does not renew

this evidence, any further payments will be made without value added tax. Subsequent modification is possible, however this will be subject to corresponding handling fees.

5.13. No interest is paid on the credit balance in publisher accounts. The publisher's credit balance is forfeited in the period defined under Section 195 of the BGB, if the publisher account is inactive or the balance is not payable due to the absence of or a mistake in the associated bank account.

6. PUBLISHER'S LIABILITY

The publisher absolves belboon of any claims for damages and any liability claims or costs which arise for belboon due to the publisher acting in breach of their duties or in a manner which is contrary to the contractual agreement.

7. BELBOON'S LIABILITY

7.1. As would be expected in the internet industry, belboon will endeavour to ensure that the online system remains available 24 hours per day. Exceptions to this are expected disruptions for necessary maintenance procedures or which are the fault of a third party company not affiliated to belboon. If the online system nevertheless malfunctions, belboon will immediately make every possible effort to restore its availability. The contracting parties recognise that in exceptional cases it is possible that the online system will fail to record or log a small number of transactions. There is no entitlement on the part of the publisher to any kind of claim against belboon in such circumstances.

7.2. belboon is not liable in the event of a force majeure or for circumstances beyond belboon's control (e.g. act of nature, war, viruses). Nor is belboon liable for any disruption or loss of data arising as a consequence. It is the publisher's responsibility to make appropriate backup copies. A technical security backup will be carried out by belboon at least once per week.

7.3. belboon offers no guarantee of successful sales.

7.4. belboon is not liable for any damages which arise from a failure to keep data up to date (cf. Section 2.7). If belboon incurs any loss as a consequence of such a failure, the publisher must compensate this in its entirety.

7.5. belboon is not liable in terms of the accuracy or completeness of the content, or the quality of goods and services offered by advertisers, nor is it liable should such services infringe the rights of third parties. belboon offers no kind of guarantee for any damages arising from the parties' faulty software or hardware, or due to the availability or functioning of the internet.

7.6. Except for cases involving loss of life, personal injury or damage to health, belboon is only liable for damages insofar as these arise from intentional or grossly negligent behaviour, or a culpable breach of fundamental contractual obligations by belboon, its staff or its subcontractors. This also applies for damages arising from a breach of obligations during contract negotiations or which are due to unlawful activities. Any further liability for compensation claims is excluded.

7.7. Except for intentional or grossly negligent conduct, or the breach of a material contractual obligation, or for cases involving loss of life, personal injury or damage to health on the part of or caused by belboon, its employees or its subcontractors, liability is restricted to typically foreseeable damages at the time the contract is concluded and, moreover, liability is limited to the average standard amount for damages under a typical contract and is no greater than the average performance-related remuneration for half a year for the contracting party. The same also applies for incidental damages, particularly loss of profit.

7.8. The provisions of product liability law remain unaffected.

7.9. If the publisher incurs a loss due to misconduct by an advertiser or by an agency which is authorised to represent the advertiser, the publisher is entitled and obliged to assert all resulting claims against the advertiser, in particular in terms of the right to information, claims for injunctive relief and claims for damages. belboon pledges to cede all the necessary rights in this regard to the publisher.

8. DATA PROTECTION

8.1. belboon is entitled to collect, process and store the publisher's personal data. This is done in compliance with the applicable data protection regulations.

8.2. belboon is likewise entitled to pass on the data stored by the publisher in belboon's online system to external service providers for the purposes of address and data validation. This is done in compliance with the applicable data protection regulations.

8.3. The stored data is used exclusively for the performance of the contract agreed between the parties. Once the contract is fully concluded, the contracting party's data will be locked and once the statutory periods have elapsed the data will be permanently deleted. The data will then no longer be available for any further use.

8.4. If the publisher wants their data to be completely deleted, this must be requested via the belboon support department, as specified on the website.

8.5. The publisher authorises belboon to pass on the data provided at registration to all advertisers which have entered into a partnership with the publisher for belboon.

8.6. belboon is entitled to take all necessary technical steps to guarantee maintenance of the network and to identify any possible misuse. Sections 109 ff. of the TKG shall apply here mutatis mutandis.

9. MODIFICATION

9.1. Modifications to the general terms and conditions for publishers are possible at any time and will be announced giving reasonable advance notice. Such changes will be made accessible by email and via the online system.

9.2. If there is no explicit written objection within the notice period, the new terms and conditions for publishers are deemed to have been accepted, provided belboon has made the publisher aware of the intended significance of the process at the start of the notice period

9.3. If there is an explicit written objection, the contractual relationship is deemed to have been terminated in terms of Section 10.1.

10. TERMINATION

10.1. The contract can be terminated at any time by either contracting party.

10.2. Termination by a publisher may be done in paper form, via email or by fax. Evidence of the authority of the signatory may be demanded by belboon. Termination by belboon need not be done in writing and, specifically, can also be done via email.

10.3. The right to extraordinary termination remains unaffected by Section 10.1.

10.4. In the event of a termination, the publisher must remove all advertising material within 48 hours. This does not absolve the publisher of their duty to immediately remove invalid or no longer functioning advertising codes from their advertising platforms.

10.5. Any possible remaining credit will be paid to the publisher once any costs incurred have been deducted. For payments which are below the currency-specific threshold, a currency-specific processing fee will be levied. Both of these are determined by the relevant applicable price list which is published online.

10.6. belboon reserves the right to extraordinary termination if there is just cause.

10.7. Just cause is deemed to exist, in particular, if the publisher fails to comply with the regulations in:

Section 3 ff.: behavioural obligations

Section 4 ff.: advertising material.

10.8. It is immaterial whether the failure to comply was by the publisher themselves or by a third party commissioned by the publisher.

10.9. Compensation claims and contractual penalties remain unaffected.

11. CONTRACTUAL PENALTY

11.1. For each case where there is an infringement of the regulations in:

Section 3 ff.: behavioural obligations

Section 4 ff.: advertising material

belboon and the publisher agree a contractual penalty of 5,001.00 EUR in each instance.

11.2. It is immaterial whether the misconduct was by the publisher themselves or by a third party commissioned by the publisher.

12. MISCELLANEOUS

12.1. German law is applicable with the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods.

12.2. If the publisher is a merchant, a legal entity under public law or a special fund under public law, or if they do not have a place of general jurisdiction in Germany or if, after concluding the contract, they relocate their place of residence abroad or their place of residence is unknown at the time the complaint is filed, then Berlin is the place of performance and the place of jurisdiction for any disputes arising from the contract.

12.3. For legal disputes between the parties the German-language version of the contract is considered to be authoritative.

13. SEVERABILITY CLAUSE

If provisions in this contract are or become invalid in terms of German case law, the validity of the remaining provisions is unaffected. In place of the ineffective provision or in order to remedy any omissions, an appropriate ruling should be introduced which comes as close as possible to the original intention of the contracting parties.

Berlin, July 2017