

# General Terms and Conditions

## for Publishers



For participating in partner programmes on the belboon online-platforms

### 1. Area of Use / Definitions

1.1. The following general terms and conditions are part of each and every contract between the belboon-adbutler GmbH, Karl-Liebknecht-Straße 1, D-10178 Berlin (called: belboon in the following) and the contract partner.

1.2. belboon provides services, performances and supplies for Publishers only on the basis of these General Terms and Conditions for Publishers. Apart from that belboon is entitled to pass on services or other parts hereof to be carried out independently by third parties or an agent.

1.3. The validity of the General Terms and Conditions for Publishers refers to all services offered to Publishers by belboon. By making use of the services by belboon the Publisher acknowledges these General Terms and Conditions as binding.

1.4. Apart from the present General Terms and Conditions, the relevant valid price list provided by belboon also becomes part of the contract with Publishers.

1.5. The following definitions are used for applying and interpreting the contract:

#### *Publisher*

A Publisher is a natural or legal person, owner respectively operator of digital media (websites, e-mails, SMS, MMS, and others), providing belboon with linked advertising platforms that are further passed on to an Advertiser. A Publisher is an entrepreneur (§ 14 BGB – Civil Law Code) and not a consumer (§ 13 BGB).

#### *belboon*

With its partner programme network belboon makes advertising available to Advertisers on digital media by Publishers. To this end, belboon negotiates framework agreements, offers technical infrastructure and records the negotiated services.

#### *Double Opt-In*

With the 'Double Opt In' option, entry into a subscription list is carried out in two steps:

1<sup>st</sup> Step: Upon request the interested party receives an e-mail with an individual confirmation link.

2<sup>nd</sup> Step: Only when the interested part has activated this confirmation link and through this a confirmation, he will be entered into the subscription list.

### *Life-Time-Commission*

Where a "Life-Time-Commission" is concerned, the customer is recruited by the Publisher only once. For this single recruitment the Publisher receives a commission that is limited to this relevant programme – life time. In case this programme life time ends then so does the "Life-Time-Commission".

### *Advertiser*

As a rule, the Advertiser is an enterprise that is recruited by belboon and advertises through the Publishers on mobile and digital media. The Advertiser has if the advertising material was successful an obligation to pay belboon in accordance with the current valid price lists.

### *Contract Partners*

belboon's contract partners are Publishers as well as Advertisers.

### *Advertising Materials*

Any type of advertising materials (e.g. banners, texts, flash-animations and others), that the Advertiser makes available to belboon for advertising purposes.

### *Advertising Platform*

A digital medium (ad carrier) which is created as an advertising platform in the belboon online system eg a website, newsletter, mobile site etc. It is used by the Publisher to intergrate one or more digital advertising materials made available by belboon programmes.

## **2. Contract Signing and Participation**

2.1. belboon offers advertising materials provided by Advertisers for their partner programmes. The Publisher can apply for these partner programmes.

2.2. Contract is made between belboon and the Publisher. There may be a possibility that in certain cases belboon adds additional conditions for participating in a partner programme. These conditions are then supplementary to the current General Terms and Conditions for the Publisher.

2.3. Only legal persons as well as unrestrictedly legally competent natural persons can become Publishers at belboon. There is no entitlement to participation.

2.4. belboon has the right to request a valid business license, commercial register-entry and / or proof of identity from the Publisher.

2.5. In case an employee of a legal person applies to become a Publisher, then this requires a written authorisation. The same is valid for other third parties (e.g. an agency) that register as a Publisher in their name.

2.6. A contract only becomes valid, when belboon confirms the registration of the Publisher.

2.7. When registering, the Publisher must provide all requested details and answer truthfully. The Publisher must update the belboon online system independently, at the latest, within two weeks of changes taking place. If there are changes to the contract partnership, e.g. due to changing company names, take-over, relocating the business etc., then the Publisher must inform belboon in writing with relevant extracts from the commercial register and / or proof of business.

2.8. The Publisher agrees to receive e-mails by belboon and also by Advertisers recruited which they have applied to. If the Publisher prevents the receptions of these e-mails then this will be taken as implied cancellation of the contract.

2.9. The Publisher must observe the applicable laws. Advertising platforms which apply must not violate laws of the Federal Republic of Germany. belboon has the right to check advertising platforms for their contents and, if necessary, switch them off. The check may also be carried out by technical means.

2.10. The Publisher guarantees that they will not save any data or direct to any such data that may violate belboon's technical infrastructure and operating processes (e.g. viruses, Trojans, etc.).

2.11. belboon has the right to become also active as Publisher, Advertiser or agency.

2.12. belboon has the right to use the Publisher as reference and also use the relevant name and logo in all media.

### **3. Code of Conduct**

3.1. The Publisher is only allowed to participate in partner programmes with advertising platforms for which he owns the rights. Should advertising platforms be registered in the name of third parties, then the Publisher must present belboon with the relevant authorisation.

3.2 The Publisher is subject to a spam-ban with regard using advertising means and URL-codes in e-mails made available by belboon. Sending e-mails without request violates the German Competition Law and will in any case result in a warning from the receiver, competitors or consumer protection association. Therefore the Publisher is not allowed to send unrequested e-mails (spam) to third parties or to use advertising means and URL-codes provided by belboon in such e-mails.

3.3. Use of advertising materials and URL's in e-mails is only then permitted, when the receiver has expressly and traceably agreed beforehand to receive the e-mail ('Double Opt In'- procedure) and the e-mails show a legally valid imprint.

3.4. Upon specific request by belboon, the Publisher is obliged to present, if necessary, 'Double-Opt-In' evidence within 48 hours; otherwise belboon can apply the 'right of cancellation' according to §10.7.

3.5. The automatically generated "views, clicks, leads or sales" via technical devices (also computer programmes) as well as intentional and fraudulent misrepresentation is not permitted. Such irregularly obtained remuneration claims will be cancelled retrospectively by belboon.

3.6. The Publisher is obliged not to use any methods that will implement commission cookies without contact with advertising material (view or click) by the end user, without prior written approval by belboon.

3.7. The Publisher is obliged to set up their website including all entries in search engines, lists or link lists of third parties such that only valid clicks, leads and sales are generated.

3.8. Furthermore the Publisher is obliged to design their website in accordance with the applicable legal regulations and in particular with the obligatory consumer rights.

3.9. The Publisher is also obliged to refrain from displaying violence, sexual or pornographic contents, making or displaying discriminating statements with regard to race, gender, religion, nationality, disabilities, sexual tendencies or age.

3.10. If the Publisher advertises belboon partner programmes independently of their own site on another advertising network then they are obliged to ensure that the network's Publishers adhere to the rules and regulations of the belboon network and the relevant programme specific participation conditions. The Publisher is also obliged to give necessary details to the belboon network. If there is any violation, then the Publisher is fully liable

#### **4. Advertising Materials**

4.1. Changing the advertising means- and tracking codes generated from the system is not permitted. Exceptions may be negotiated individually in writing with belboon. The advertising means made available by belboon may not be changed or processed otherwise without prior approval. Placements or the frequency can be decided upon by the Publisher themselves.

4.2. The Publisher is furthermore not allowed to use trademarks or other rights of Advertisers in any way, as far as and in as far as belboon has explicitly excluded this in the participation conditions of the relevant partner programme.

4.3. The Publisher is obliged to integrate advertising materials made available to him only on advertising platforms intended for them and not to pass them on to third parties. He can also only use the advertising material in connection with the participation in the partner programme.

4.4. The Publisher will inform belboon about technical changes or with regard to contents on their digital advertising areas that go beyond the extent that had been agreed in the contract. The Publisher confirms that in such a case there will be no further advertising shown in the advertising spaces without prior agreement.

4.5. The Publisher is obliged not to present prepared advertising means in such a context that may recognisably endanger the economic interests of belboon or its Advertiser customers.

4.6. The Publisher is obliged to remove advertising materials if their relationship is cancelled, is barred or expires. If he does not remove the advertising means or they are no longer available, then they will automatically be replaced by belboon advertising materials or by partner programmes of affiliated networks.

4.7. Information gained by transmitting advertising materials can only be used by the Publisher in connection with the belboon partner programmes. It is expressly prohibited to pass this information onto third parties for use in other purposes. The Publisher is responsible for the proper integration of the advertising means. belboon is not liable for disadvantages resulting from an incorrect integration.

## **5. Remuneration & Invoicing**

5.1. The Publisher is entitled to remuneration by belboon, based on the relevant agreements of advertising programmes. The Publisher has a virtual account with belboon (credit account) for an intermediate storage and visual preparation of remunerations. Existing credits do not yield interest. A payment can only be claimed, provided the account of the relevant Advertiser is in credit, which is checked by belboon within the frame of technical possibilities; unless otherwise expressly indicated, only net values are shown.

5.2. The conditions of remuneration within the frame of the partner programme are shown on the belboon website. In case the conditions change, then belboon will inform the Publisher about this at least 48 hours before the change becomes active. Should there be an important substantial reason, then the deadline may be reduced under certain circumstances.

5.3. belboon is entitled to stop or pause a partner programme obtained by the Publisher, without having to give any reasons.

5.4. Remuneration is made based on the following events that can be combined. All views, clicks, leads and sales are recorded and verified as far as technically possible on the basis of the belboon transaction system. Leads and sales are recorded in accordance with the relevant partner programme configuration amongst others by cookie and / or session tracking.

*Pay per View:* The view is remunerated, when the Publisher places, links and indicates one or several of the provided advertising means of a partner programme on his advertising platform and there is a relevant remuneration in the specific remuneration model of the partner programme. A view is then valid, when a user calls up the advertising platform of a Publisher, where the advertising means is clearly visibly integrated. Views for advertising materials that are generated on advertising platforms that are not registered in the belboon network, are not counted as valid. Also, repeatedly appearing flashes or successive flashes from the same advertising means for the same user (user/IP) are also not counted as being valid.

*Pay per Click:* With each click on advertising materials and thus resulting visits to the Advertiser site the Publisher is credited a sum defined in the remuneration model of the relevant partner programme. A click is then valid, when a user (user/IP) clicks consciously and deliberately on an advertising means of a Publisher's advertising area. Clicks on advertising materials that are generated on the advertising platform but are not registered in the belboon network and also repeated, respectively advertising means clicks in short sequence on the same advertising means by the same user (user /IP), respectively procedures. Forced clicks without expressed approval are not allowed and are invalid or any comparable, will not be remunerated.

*Pay per Lead:* A lead is defined in the remuneration model of the relevant partner programme (e.g. newsletter subscription, registering, contacting the Advertiser). A lead is remunerated when a user, after an advertising means click on the advertised digital medium, carries out the defined user action completely and permanently on the partner programme (e.g. no immediate cancellation of a newsletter subscription).

*Pay per Sale:* A sale is the signing of a contract by a user through a medium offered by the Publisher and an Advertiser for using goods or services against payment. A sale is valid, when the user, after having clicked the advertising means on the digital medium of the Advertiser, concludes a contract for a service against payment and a relevant remuneration in the remuneration model of the relevant partner programme has been provided.

*Life-Time-Commission:* The Publisher receives a "Life-Time-Commission" restricted to the relevant programme life time for the one-off gain of a customer.

5.5. The Publisher's claim towards belboon for performance based remuneration is created and becomes due based on the following conditions:

- An event has been successful (View, Click, Lead, Sale) based upon the advertising area provided to belboon by the Publisher. Within the scope of the relevant partner programme a commission is provided for this event.
- The event has been successfully recorded by belboon.
- There are no violations by the Publisher recorded with regard the current General Terms and Conditions.
- In the case of an event-type 'sale': The user accepts the delivery of goods at the place of destination, pays completely and the legal respectively the cancellation period granted to the customer by the Advertiser has run out.
- The event commission has been confirmed in the belboon system and thus finally acknowledged.

5.6. belboon is not obliged to remunerate events that have been generated by force or deception, nor do automatically or otherwise generated manipulations (e.g. click generators). In such a case belboon is entitled to block the Publisher's credit account and charge it fully with the unlawfully obtained and proven amount and credit it back to the Advertiser.

5.7. belboon assures the Publisher the completeness of the successes as listed in the accounts only within the frame of the general technical possibilities of such a recording, in accordance with the applied tracking system.

Should a technical recording not be possible, e.g. rejecting cookies by the user of the Publisher medium, then remuneration can only be claimed by the Publisher using suitable evidence and this accepted by the Advertiser.

5.8. belboon has the right to offer individual Publishers to participate in a partner referral programme. For new Publishers, the marketing Publisher receives a share of the belboon yield generated during this partner referral programme, credited to his virtual account. In case there is no other agreement, then the marketing partner receives a share of 1% of belboon's yield turnover from the new Publisher; higher commission claims must be negotiated.

The commission claim on the yield of new Publishers ends at a time, when the new Publisher cancels his access with belboon respectively removes it or is barred or is cancelled by belboon due to violations against existing rights. This is valid, independent from the fact that at a later time the new Publisher establishes a new Publisher access at belboon.

5.9. belboon prepares at least one monthly credit note for the Publisher (credit note procedure) and sends this out by e-mail. belboon pays the remuneration the following month, provided the remuneration has reached its currency specific payment limit. If necessary, the previous months must be added together. In the event of an account cancellation then the Publisher can apply for a manual payment even if the payment limited has not been reached, but in this case a currency specific handling charge will become due, as per the price list published online.

5.10. Credit notes to Publishers are prepared by belboon exclusively in a pdf format with a qualified electronic signature according to the German signature law (SigG) and sent by e-mail. Additionally, the electronically signed credit notes are also made available for download in the Publisher login-section of belboon. The Publisher explicitly refrains from receiving the credit notes by post.

5.11. Together with the payment to the Publisher's account in the online system, he will receive a relevant credit note by e-mail to be checked. In case the Publisher does not contradict this credit note within 3 days after receipt, then the credit note is considered to be approved. The virtual account statement at belboon is respectively reduced. The Publisher pays for the bank transfer charges. The payment is carried out based on the virtual accounts; unconfirmed commissions are not paid out.

5.12. Value added tax is only paid to the Publisher, when he has presented a suitable evidence of his entitlement to deduct income tax. This must be renewed every year. If the Publisher does not renew this evidence then the further payments will be made without income tax. A subsequent change is possible, however, there will be handling charges.

5.13. Credits on the Publisher account do not generate interest. A credit on the Publisher account becomes invalid within a specific period (§ 195 BGB), if the Publisher account is inactive or the credit cannot be paid because of missing or faulty account details.

## 6. Publisher's Liability

The Publisher releases belboon from any claims for damages, liability claims and any other costs, that may occur to belboon due to actions by the Publisher that are contrary to obligations or contract.

## 7. belboon's Liability

7.1. belboon will do everything that is necessary to guarantee that the online system is available 24 hours per day, with the exception of interruptions for necessary maintenance work or due to third parties not connected with belboon. Should the online system fail anyway, then belboon will take care at once to restore the availability within their frame of possibilities. The contract parties will recognise that in exceptional cases there will be a small number of transactions that cannot be recorded by the online system. This will however not result in the Publishers making a claim against belboon.

7.2. belboon is not liable for force majeure and events that cannot be influenced by belboon (e.g. natural disasters, war, viruses). Thus belboon is not liable for resulting interruptions, respectively destruction of data. It is up to the Publisher to produce back-up copies. Data is secured by belboon at least once a week.

7.3. belboon does not guarantee turnover successes.

7.4. belboon is also not liable for damages that result from violating the data updating obligation (compare § 2.7). In case belboon suffers damages, then these must be compensated for by the Publisher to its full extent.

7.5. belboon is not liable for the correct and complete contents, the quality of goods and services from Advertisers, as well as for the fact that these services do not violate rights of third parties. belboon does not warrant for damages that result from faulty software or hardware of the parties nor for the availability respectively the functioning of the internet.

7.6. belboon is only liable for damages other than injuries to life, body and health, only in as far as these have been caused by intent or gross negligence or are based on a culpable breach of fundamental contractual obligations by belboon, its employees or one of their agents. This also applies to damages resulting from a violation of obligations during contract negotiations as well as performing impermissible actions; a further extended liability for compensation is excluded.

7.7. belboon's liability is limited, apart from an intentional and grossly negligent behaviour, the breach of cardinal's obligation or injuries to life, body and health by belboon, his employees or agents, to such typically foreseeable damages during contract conclusion and apart from that limited with regard to the amount to contract typical average damages, at the most, however, to the average success-dependent remuneration for half a year of the contract party. This also applies to indirect damages, in particular lost profits.

7.8. The regulations of the product liability law remain unaffected.

7.9 Should the Publisher suffer damages by the inappropriate behaviour of an Advertiser or one of his legal agents, then the Publisher is entitled and asked to claim subsequent claims, especially information-, omission- and damages claims against the Advertiser. belboon promises to assign its necessary right to the Publisher.

## **8. Data Protection**

8.1. belboon is entitled to collect, process and store person related data relating to the Publisher, while respecting the current data protection regulations.

8.2. belboon is also entitled to pass on such data that the Publisher has deposited in the belboon online system to external service providers for the purpose of validating address and data as well as for checking the credit worthiness, while respecting the current data protection regulations.

8.3. The stored data will exclusively be used for handling the contract concluded between the parties. They will not be used for other purposes, e.g. for advertising or market research. After the contract has been completely fulfilled the contract partner's data will be blocked and permanently deleted after the end of the legal deadline. After that the data is no longer available for use.

8.4. If the Publisher wants their data completely removed, they will have to turn to the support of belboon as mentioned on the website.

8.5. The Publisher authorises belboon to pass on all data referring to the application to the Advertiser, who has entered into a partnership with the Publisher for belboon.

8.6. belboon is entitled to take and apply all such technical measures required that are necessary to guarantee the upkeep of the network and detect possible misuse; § 110 TKG applies.

## **9. Amendments**

9.1. Amendments to the General Terms and Conditions for the Publishers are always possible and will be announced with a notice of two weeks. They will be made available by e-mail and via the online system.

9.2. As long as this is not explicitly objected in writing within two weeks, the new General Terms and Conditions are considered to be accepted by the Publisher.

9.3. In case of an explicitly written objection, then the contract is considered cancelled according to §10.1.

## 10. Cancellation

10.1. The contract can be cancelled by either contract partner anytime.

10.2. The cancellation notification by the Publisher can only be done in writing on paper (original letter or by fax), a cancellation by e-mail is not acceptable. A cancellation by belboon does not require a written form and can also be sent by e-mail.

10.3. The right for an extraordinary cancellation remains unaffected by §10.1.

10.4. In case of a cancellation, the Publisher must remove all advertising means within 48 hours. This does, not relieve the Publisher from his obligation to remove all invalid advertising codes that do not work anymore from their advertising platforms at once.

10.5. A possible remaining credit will be paid out to the Publisher after all costs incurred have been deducted. For payments below the sum of a currency specific payment limit a handling fee will be charged. Both are regulated by the relevant current published price list.

10.6. belboon is entitled to exercise their right of an extraordinary right of cancellation in case of an important reason.

10.7. An important reason is in particular, when the Publisher does not adhere to the regulations of

- §3 ff.: Code of Conduct
- §4 ff.: Advertising Material

10.8. It is of no importance, whether the non-compliance is caused by the Publisher himself or a third party delegated by the Publisher.

10.9. Claims for damages and contractual penalties remain unaffected hereof.

## 11. Contractual Penalty

11.1. For each case of violating the regulations of

- §3 ff.: Code of Conduct
- §4 ff.: Advertising Material

belboon and the Publisher agree upon a contractual penalty of 5,001.00 Euros per case.

11.2. It is of no importance, whether the non-compliance is caused by the Publisher himself or a third party delegated by the Publisher.

## **12. Publicity**

The YOC AG, as 100 per cent owner of the belboon-adbutler GmbH, and as a listed enterprise, is obligated to publicity according to the Securities Trading Act (WpHG) and is furthermore subject to a voluntary commitment for publicising important business and price sensitive facts. For this reason the Publisher confirms his agreement for publicising relevant facts in the form of press releases, corporate news and within the frame of quarterly reports.

## **13. Other**

13.1. The German Law is applicable, excluding the UN-sales law.

13.2. As far as the Publisher is a merchant, a legal entity under public law or a federal special fund under public law, or does not have any general place of jurisdiction nationally, or has relocated abroad after contract conclusion or his whereabouts at the time of filing a claim is unknown, then the place of fulfilment and jurisdiction for disputes resulting from our contract is Berlin.

13.3. These General Terms and Conditions for Publishers apply exclusively to the contract. Other conditions are not part of the contract contents, even, if belboon has not expressly objected to them.

13.4. Amendments or supplements to this contract must be done in writing to become effective. Employees at belboon are not authorised to make verbal changes or add supplements or verbally confirm anything.

13.5. In case of legal disputes between the parties, the German contract version is applicable.

## **14. Severability Clause**

In case conditions of the current contract are or may become invalid in the sense of German Law, then the validity of the remaining conditions remain unaffected. As replacement of or to fill up gaps, a suitable regulation should be put in place that comes closest to that what the contract partners originally wanted.

Berlin, in July 2011