

GENERAL TERMS AND CONDITIONS (GTC) FOR ADVERTISERS

For the operation of partner programmes on belboon online platforms

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PREAMBLE

belboon GmbH is one of the three leading affiliate networks in the German-speaking market and has dedicated its focus to the further development of international business. Approximately 1,800 partner programmes and publishers from around 46 nations are active in the network. As the first affiliate network worldwide, the company has transferred its business model to mobile internet. Publishers and advertisers benefit from online and mobile due to the outstanding performance and great range of the network as well as the market-leading technology in conjunction with the high degree of intrinsic network service. belboon was founded in 2002 and is headquartered in Berlin.

1. SCOPE OF APPLICATION AND DEFINITIONS

1.1. The following General Terms and Conditions are an integral part of any contract between belboon GmbH, Weinmeisterstr. 12-14, D-10178 Berlin (belboon) and the Contract Partner.

1.2. belboon provides its services and supplies for Advertisers exclusively on the basis of these General Terms and Conditions of Business for Advertisers. belboon is also entitled to perform the provision of services or parts thereof themselves or transfer them to third party service providers or subcontractors.

1.3. The validity of these General Terms and Conditions of Business for Advertisers extends to all services offered to advertisers by belboon. With the use of the services of belboon, the advertiser acknowledges these General Terms and Conditions of Business for Advertisers as binding.

1.4. In addition to these General Terms and Conditions of Business for Advertisers, the valid belboon price list is also an integral part of the contract.

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

Publisher

A Publisher is a natural or legal person, owner or operator of digital media (websites, emails, **blogs, Instagram, facebook, YouTube profiles**, SMS, MMS, etc.) which provides advertising space linked by belboon which link to Advertisers. A Publisher is an entrepreneur (§ 14 German Civil Code) and not a consumer (§ 13 German Civil Code).

belboon

With its partner programme network, belboon places the advertising of Advertisers on the digital media of Publishers. For this purpose, belboon concludes framework contracts with these parties, provides the technical infrastructure and logs the mediated services.

Double opt-in

In a "double opt-in", the entry is made in a subscriber list in two steps:

1. Step: On request, the customer receives an e-mail message with an individual confirmation link.
2. Step: The interested party is only entered in the subscriber list once they have actively clicked on the confirmation link and has given their confirmation in this way.

Life-time provision

For a life-time provision, the Customer is only advertised once by the Publisher. The publisher receives a provision limited to the respective lifetime of the programme for this unique advertising. If the respective programme life-time ends, the life-time commission also ends.

Advertisers

The Advertiser is usually a company which links via belboon, advertises on mobile and digital media of the Publisher and is liable to pay a charge to belboon according to the valid price list and, if the advertising is effective, in accordance with the agreed terms and conditions.

Contract Partner

The contract partners of belboon are both Publishers as well as Advertisers.

Advertising media

Any form of advertising media (e.g. banners, text, Flash animations, etc.), which the Advertiser provides belboon for advertising purposes.

Advertising platform

Digital media stored as an advertising platform in the belboon online system (advertising distributor) such as a website, a defined newsletter distributor, a mobile website etc. on which a Publisher

integrates advertising media from belboon partner programmes on one or more digital advertising areas.

2. CONCLUSION OF CONTRACT

2.1. The contract is made between belboon and the Advertiser itself. In certain cases, it may be that the Advertiser agrees supplementary conditions with belboon for participation in its partner programme. These conditions are physically stored in the belboon online system and are communicated by belboon to its Publishers as supplementary to the General Business Terms and Conditions for Publishers for the respective partner programme.

2.2. Advertisers with belboon can only be legal persons and fully competent natural persons. There is no claim to participation.

2.3. For registration as Advertisers, the presentation of a valid business registration or commercial register extract is required.

2.4. If an employee of a legal person registers this persons with belboon as an Advertiser, the submission of a written power of attorney is required. The same applies if a third party (e.g. an agency) registers an Advertiser or represents them vis-a-vis belboon on their behalf.

2.5. A contract only comes into being if belboon confirms the registration of the Advertiser by means of a written contract.

2.6. When registering, the Advertiser must give the required information completely and truthfully. The Advertiser must make any changes themselves in the belboon online system without delay, within two weeks after the change occurs at the latest. Changes in the Contractual Partnership, for example through the change of company name, acquisition, relocation of headquarters etc. must be reported by the Advertiser to belboon in writing with supporting documentation such as commercial register extracts and/or commercial proof.

2.7. The Advertiser agrees to receive messages via email, SMS or other available communication platforms (such as WhatsApp) by belboon and for its Publisher contract partners. If the Advertiser objects to the receipt of such messages, this results in an implicit termination of the contract.

2.8. The Advertiser commits to observing all relevant laws in all activities with belboon. Only partner programmes and advertising media may be registered which, in their content, do not violate the law of the Federal Republic of Germany and good social morals. The obligation to verify this is the sole responsibility of the Advertiser. belboon is nevertheless entitled to examine the content of the advertised websites and advertising material of the Advertisers and remove it where appropriate. This examination may be performed using technical means. belboon will pass any claims for damages by Publishers on the basis of copyright infringement by Advertiser content (such as images) to the Advertiser. See also: Decision of the District Court of Hamburg on liability for links (File Ref. 310 O 402/16).

2.9. The Advertiser ensures that it neither stores nor forwards data which could endanger the technical infrastructure and operations of belboon (e.g. viruses, Trojan horses, etc.).

2.10. belboon is at liberty to also act as a Publisher, Advertiser or agency.

2.11. belboon may use the Advertiser in advertisements as a reference and use the name and the logo in all media for this purpose.

3. PARTICIPATION

3.1. For the Advertiser, participation in the affiliate network of belboon bears a charge. The prices of the current price list published online apply.

3.2. The Advertiser has a virtual account with belboon.

3.3. The Advertiser must pay an appropriate currency-specific deposit in advance for the deployment of partner programmes via belboon. For this, the Advertiser receives a payment on account invoice upon payment of its credit on the virtual account. All the transaction costs (e.g. charges in payment transactions) are borne by the Advertiser.

3.4. The access of the Advertiser is enabled by belboon after conclusion of contract. Unless otherwise agreed, the currency-specific minimum payment defined in the current price list must be paid.

3.5. The Advertiser is obliged to immediately top up its advertiser account upon request by belboon, such request may be made by email, SMS or other available communication platforms (such as WhatsApp). If the account balance of the Advertiser falls to the currency-specific minimum balance, belboon may disable the partner programme and deactivate the advertising material of the Advertiser.

3.6. belboon invoices are payable immediately after receipt of the invoice. Part payments are not credited to the virtual credit account of the Advertiser in the belboon system. The Advertiser is not entitled to the deduction of discounts.

3.7. belboon creates monthly statements for the advertiser credit used. If the Advertiser has a negative account balance for the monthly settlement date, the Advertiser retrospectively receives the respective monthly statements only after it has topped up its belboon credit account to a positive amount again.

3.8. Invoicing to the advertiser by belboon takes place exclusively in PDF format electronically by email. Invoices are also available for download in the advertiser login area of belboon. The Advertiser expressly waives the postal forwarding of invoices.

4. RULES OF CONDUCT

4.1. belboon sends applications from Publishers to the Advertiser to participate in its partner programme. The application made by a Publisher to belboon to join a partner programme must be approved or rejected by the Advertiser within 14 days. An automatic confirmation of the Publisher occurs after 14 days. The acceptance of the application is made by the Advertiser on behalf of belboon to the Publisher.

4.2. The decision for the adoption of a Publisher with effect for belboon applies solely to the Advertiser, unless agreed otherwise. Consequently, the obligation to keep Publishers participating in its partner programme under constant review applies only to the Advertiser. In addition, the Advertiser may exclude individual Publishers from its partner programme on behalf of belboon at any time. Any responsibility of belboon vis-a-vis the Advertiser in respect of Publishers participating in its partner programme is expressly excluded.

4.3. In email communications with the Publishers of the belboon network, the Advertiser is obliged to include a legal disclaimer in its emails, either in the form of text or a directly accessible link.

4.4. Belboon Advertisers are not permitted to solicitate the Publishers for partner programmes operated outside of the belboon network by using the belboon network and the belboon network functions. In the event of infringement, for whatever reason, the Advertiser shall pay a contractual penalty in the amount of 5,001 Euro to belboon.

5. ADVERTISING MEANS

5.1. The Advertiser provides the advertising means, including the required codes, hyperlinks, etc. for its partner programme in an appropriate form. It is obliged to ensure the documentation of the transactions subject to payment (views, clicks, leads, sales) via belboon using the applied tracking methods in its sphere of influence and not to hinder the belboon tracking system with technical means for the contracted recording of transactions.

5.2. The advertiser is solely responsible for the planning and functional integration of tracking codes provided by belboon.

5.3. The placement as well as the frequency of integration of provided advertising media can be performed by the Publisher at its own discretion on behalf of belboon. The Advertiser has no influence on this, provided its economic interests are not violated.

5.4. The Advertiser issues belboon a license limited to the duration of the contract to use and forward all trademarks, copyrights and related rights used by belboon in the framework of the partner programme, within the framework of the belboon network vis-a-vis Publishers. Provided that the advertiser has not explicitly excluded this in the terms and conditions of participation in the partner programme, belboon may sublicense this license to the Publishers, so that they can promote the Advertiser on behalf of belboon.

6. REMUNERATION

6.1. The terms of the repayment in the context of partner programmes are negotiated between belboon and the Advertiser. The remuneration share for the Publisher is determined on the belboon platform and communicated accordingly in the belboon system.

6.2. The Advertiser commits not to treat belboon less favourably with regard to allowances and transaction structures compared to other affiliate networks with which the Advertiser also cooperates. This also applies to all other non-monetary Partner Programme Terms and Conditions (e.g. cookie lifetime, AutoAccept etc.).

6.3. belboon is entitled to pause or suspend a partner programme of the Advertiser at any time without indication of reasons.

6.4. Desired condition changes of the Advertiser must be communicated to belboon at least 3 working days before the date of their entry into force.

6.5. Payments for transactions invoiced on the basis of pay per view or pay per click are due immediately and are generally regarded as irrevocably confirmed by the Advertiser and therefore recognised as subject to remuneration. Payments for transactions invoiced on the basis of pay per lead or pay per sale must be confirmed or cancelled by the Advertiser vis-a-vis belboon as soon as possible and within a period of 45 days at the latest, unless otherwise agreed. After expiry of this period, an automatic confirmation of the transactions takes place on the belboon system on behalf of the Advertiser. Transactions confirmed for whatever reason are finally accepted by the Advertiser and its payment obligations vis-a-vis belboon are irrevocably accepted. A subsequent cancellation, even in part, is excluded in any case.

6.6. A cancellation of registered transactions is only possible if a case of cancellation or withdrawal defined in the supplementary terms and conditions of the partner programme according to the provisions of the Distance Selling Regulations is at hand. In all other cases, the Advertiser has no right of cancellation. It is therefore the sole responsibility of the Advertiser to draw up its supplementary terms and conditions to belboon and their publishers in such a way so that all relevant cancellation reasons are included.

6.7. The Advertiser is only permitted to cancel transactions recorded by belboon and the related allowances if the Advertiser indicates the reason for the cancellation and demonstrates this on request to belboon using appropriate documents, customer documentation or logfiles. belboon remains at liberty to examine the information by inspection of the relevant business documents of the Advertiser by an auditor committed to confidentiality. Within 14 days, the Advertiser must grant the auditor access to the relevant documents relating to the business. The cost of the appointment of the external auditor is borne by belboon, unless the cancellations of the Advertiser violated the contract in whole or in part.

6.8. A payment obligation also applies to the Advertiser if a (part) tracking failure or other malfunction is caused by them or one of their representatives. In such a case, the value to be compensated is calculated on the basis of the average daily turnover of the last 3 months. The full daily turnover is payable for each part of a day, but at least 3 days' worth of sales.

6.9. The Advertiser has the responsibility to ensure that its belboon advertiser always has a sufficient balance so that the payments for open, unconfirmed transactions are covered by positive balances. If this is not the case, belboon reserves the right to invoice an amount of 50 euro for the costs of the account administration and advertiser communication.

6.10. Credit on advertiser accounts is not subject to interest. A credit of the Advertiser shall be forfeited in the period specified in § 195 German Civil Code if the advertiser account is inactive or the balance is not refunded due to missing or incorrect bank details.

7. SUPPLEMENTARY TERMS AND CONDITIONS

7.1. The Advertiser may define additional terms and conditions for its programme. These are communicated to the Publishers participating in the partner programme as binding by belboon. The supplementary contractual conditions agreed between the Advertiser and belboon only become part of the contract if they are physically stored in the belboon system as supplementary terms and conditions. References to external conditions (e.g. on the server of the Advertiser) are not sufficient. The additional terms and conditions of participation may not conflict with the General Terms and Conditions of Business of belboon for Publishers and Advertisers. In cases of conflict, the General Business Terms and Conditions for Publishers and Advertisers of belboon take precedence.

7.2. In the case of the modification of the supplementary terms and conditions of participation, the Advertiser communicates these to the Publishers participating in their partner programme and belboon at least 3 working days before the date of entry into force. If an important objective reason is at hand, this time limit may be shortened in certain individual cases. The advertiser is responsible for the review requirement with respect to the correct submission of its supplementary terms and conditions in the belboon system.

7.3. If and insofar as the Advertiser wishes to prevent belboon from using its protected trade marks or other rights that it uses within the scope of the partner programme (cf. Point 5.4), through the Publisher, a corresponding written arrangement must be contained in the Partner Programme Terms and Conditions in the belboon system.

8. LIABILITY OF THE ADVERTISER

8.1. The Advertiser is specifically liable vis-a-vis belboon for advertising media provided by him. This shall also apply for any sales failures for which the Advertiser is responsible due to defective advertising material and advertising media transfers.

8.2. The Advertiser exempts belboon from all claims for damages, liability and any costs as a result of the fact that a claim is made against belboon as a result of advertising used by the Advertiser being in violation of competition law, industrial property rights of third parties or other laws or regulations.

9. LIABILITY OF BELBOON

9.1. belboon will make the effort customary to the internet industry to ensure that the online system is available 24 hours a day. This does not include interruptions which are common for necessary maintenance measures or for which third parties not affiliated with belboon are responsible. If the online system nevertheless fails, belboon will immediately try to restore its availability within the scope of their ability. The Contracting Parties recognise that, in exceptional cases, a small number of transactions will not be detected or reported by the online system. The Advertiser is not entitled to make a claim against belboon as a result of this.

9.2. belboon shall not be responsible for force majeure and for events that are not in its sphere of influence (e.g. violence, war, viruses). belboon is therefore also not liable for the resulting disruption or destruction of data. It is the responsibility of the Advertiser to make corresponding backup copies. A technical backup of data is performed by belboon at least weekly.

9.3. belboon does not guarantee any sales success.

9.4. belboon is not liable for damages resulting from the violation of the obligation to update data (cf. Point 2.6). If belboon incurs damage as a result, this must be compensated by the Advertiser in full.

9.5. belboon is also not liable for the correctness and completeness of the information of transactions mediated by the Publisher in the name of belboon, such as address data, postings, sales, etc. as well as for the ability of end customers to pay. belboon assumes no warranty for damages resulting from the defectiveness of the software or hardware of the parties as well as the availability or the function of the internet.

9.6. belboon is only liable for damages other than those caused by injury of life, body and health to the extent that this damage is based on deliberate or grossly negligent action or culpable violation of an essential contractual obligation by belboon, its employees or its vicarious agents. This also applies to damages resulting from the breach of obligations in contract negotiations as well as from the conduct of illicit actions. Any further liability for damages is excluded.

9.7. This liability is limited at the conclusion of a contract to the typical foreseeable damage and otherwise to the amount to the average damage amount typical for such a contract, a maximum of 5,000 euro per case of damage. This also applies for indirect damages, in particular the loss of profit except in the case of intentional or grossly negligent behaviour, the violation of a cardinal obligation or the injury of life, body and health by belboon, its employees, third-party service providers or its vicarious agents.

9.8. The provisions of the Product Liability Law remain unaffected.

9.9. Should the Advertiser suffer damage as a result of an error by a Publisher, the advertiser is entitled and required to enforce all resulting claims, in particular disclosure, forbearance and damage compensation claims against the publisher. belboon undertakes to assign the necessary rights to the Advertiser.

10. DATA PROTECTION

10.1. belboon is entitled to collect, process and save the personal data of the Advertiser and its vicarious agents (agencies). This is done in compliance with the current data protection regulations.

10.2. belboon is also entitled to forward data stored by the advertiser in the belboon online system to external service providers for the purposes of address and data validation. This is done in compliance with the current data protection regulations.

10.3. If the advertiser desires the complete deletion of its data, it must contact the Data Protection Officer of belboon. email: datenschutz@belboon.com

10.4. The advertiser authorises belboon to pass on data to all publishers upon application who have entered into a partnership with the Advertiser for belboon or have applied for such a relationship.

10.5. belboon is entitled to take all necessary technical measures to ensure the maintenance of the network and to detect any misuse. §§ 109 et seq Telecommunications Law applies mutatis mutandis for this purpose.

11. CHANGES

11.1. Changes to the General Terms and Conditions of Business for Advertisers are possible at any time and will be announced in compliance with a reasonable deadline. These are provided by email.

11.2. If no explicit written objection is made within the period of notice, the new General Business Terms and Conditions for Advertisers is regarded as accepted if belboon has informed the advertiser of the intended meaning of the procedure at the beginning of the period.

11.3. If there is an express written objection, the contractual relationship is regarded as terminated within the meaning of Point 12.1.

12. TERMINATION

12.1. The contract may be terminated with a period of notice of 4 weeks to the end of the month by either contracting party.

12.2. Termination by an Advertiser can be by original letter, by fax or by email. Termination by belboon needs no written form and can also be by email.

12.3. In the event of a termination of the contract on the part of the Advertiser, all open events shall be validated within 45 days after the end of the contract. All previously non-validated events apply thereafter as confirmed events.

12.4. All open allowances up to the end of the contract must be paid immediately by the Advertiser.

12.5. The right to extraordinary termination shall remain unaffected by Point 12.1.

12.6. Any remaining balance is refunded to the Advertiser after deduction of all incurred costs.

12.7. In the event of a negative accounting balance, any claims must be offset immediately.

12.8. belboon has an extraordinary right of termination if an important reason is at hand.

12.9. For a monthly cancellation ratio of the events of over 70%, belboon has an immediate extraordinary right of cancellation and the immediate settlement of the account/the events. All outstanding events are automatically validated at the average cancellation rate of the last three months. The invoicing of adopted events commences immediately. The final bill is due immediately.

13. MISCELLANEOUS

13.1. German law applies under exclusion of the UN Sales Law.

13.2. If the Advertiser is a merchant, a legal person of public law or public law special assets, or has no general court of jurisdiction in Germany or moves their domicile abroad after conclusion of the contract, or its residence is not known at the time of the complaint being filed, the place of performance and place of jurisdiction for disputes arising from the contract is Berlin.

13.3. The Advertiser is obliged not to enter into a direct contractual relationship with the Publishers of belboon with the purpose of the provision of services to support the advertisers in the application of its website and goods and services offered by the providers during the entire period of this agreement and for a further period of one year after the termination of this agreement for the purpose, if

- the Publisher has participated in the partner programme of the Advertiser and
- this Publisher has been used in the previous 12 months, or
 - if the programme has been operated for a shorter period or

- the Publisher has only participated in the partner programme for a reduced period of time, or
- has been one of the 20 best-performing Publishers in terms of net publisher remuneration in the partner programme of the Advertiser during the whole time.

This does not apply to Publishers with which the Advertiser has demonstrably agreed corresponding contracts before the registration of the Advertisers to the belboon platform. The Advertiser is obliged to pay a contract penalty for each breach of this obligation, the amount of which is set at the discretion of belboon and is to be examined by the competent court.

13.4. In the event of legal disputes between the parties, the German-language contract version takes precedence.

14. SEVERABILITY CLAUSE

Should any of the provisions of this agreement be or become invalid within the meaning of case law in Germany, the validity of the remaining provisions shall remain unaffected. To replace ineffective provisions or close loopholes, an appropriate arrangement should be agreed which most closely resembles what the parties originally intended.

Berlin, July 2017