

## General Terms and Conditions

*This document is a translation. In the case of discrepancies or errors, the latest German original is to be considered authoritative.*

These Terms and Conditions apply to the use of the platform [www.lead-alliance.net](http://www.lead-alliance.net) (subsequently referred to as "*platform*") of lead alliance GmbH (subsequently referred to as "*lead alliance*") and to the marketing of online advertising placements between advertising space operators (*Affiliates*) and advertising customers (*Advertisers*) (subsequently referred to jointly as "*Participants*").

The General Provisions (see sections A., D., and E.) apply to all Participants, the Special Provisions for Advertisers (see section B.) and the Special Provisions for Affiliates (see section C.) only to Advertisers and Affiliates respectively.

### A. General Provisions

#### A.1 Scope of Application

The contractual conditions stated below shall apply exclusively to all usage contracts. They shall apply to all future business relationships even if they are not agreed explicitly once again. Registration for use of this platform shall constitute agreement to these conditions. Conflicting Terms and Conditions of the Participants shall be ineffective unless they have been accepted by lead alliance explicitly in writing. Counter-confirmations by the Participants with reference to their Terms and Conditions are hereby rejected.

#### A.2 Definitions

The following definitions shall apply for these GTC as well as all further contracts between Participants and lead alliance.

**Advertiser** is a supplier of products and services advertising their offering by means of advertising materials, which are to be made available in each case.

**Affiliate** makes available advertising space and advertises the Advertisers' products and services on its own websites and other advertising spaces approved by lead alliance.

**End customers** are companies and natural persons, who purchase goods and services or use other offerings on the Internet.

**Account** is the authorised access to the platform, which the Participant obtains after registration, in accordance with the complete and accurate registration data provided by the Participant.

**Hyperlink** (subsequently also link): Reference to the website of an internet presence made available for the use of potential visitors.

**Valid click:** A click is valid, if an end customer clicks voluntarily and deliberately on a link on the Affiliate's platform, thereby calling up the linked website of an Advertiser. Repeated clicks or clicks in quick succession (interval to be determined by the Advertiser) by the same visitor – also on different hyperlinks – are not valid. Valid clicks shall be logged and verified by lead alliance and determined at lead alliance's discretion.

**Valid lead:** For the purposes of tracking, a lead is valid if an end customer effects a valid click and subsequently a voluntary and deliberate defined action (qualified action) on the Advertiser's website.

**Valid sale:** For the purposes of tracking, a sale is valid if an end customer effects a valid click and subsequently purchases goods or obtains a service requiring payment voluntarily and deliberately on the Advertiser's website. Valid sales are established or determined like valid clicks.

**Unique visitor:** This is each genuine visitor to the Advertiser's web pages, who is passed on to the Advertiser's internet presence via the advertising material incorporated by the Affiliate.

### **A.3 Participation in lead alliance platform**

1. Registration itself is free of charge. It is effected by opening a Participant account, agreeing to these GTC. On the basis of the registration and confirmation by lead alliance, a contract comes into force between lead alliance and the Participant about the use of the platform (subsequently usage contract).
2. Registration is only permitted to legal entities and natural persons with full capacity to contract.
3. The details requested by lead alliance during registration must be provided in full and accurately. In particular, each Participant must state current bank details. Registration of a legal entity may only be effected by an authorised natural person, whose name must be stated. If there is a change in the specified details after registration, the Participant is obligated to correct the details in their account immediately for lead alliance's information.
4. During registration, the Participant chooses a login name and a password. The Participant must keep their password secret. lead alliance will not pass the password on to third parties.
5. An account cannot be transferred to another person or entity.
6. lead alliance reserves the right to close the account of any registration, which was not fully completed, after 6 months.

### **A.4 Subject Matter of Contract and Conclusion of Contract**

1. lead alliance shall conclude separate contracts with the Participants with reference to these GTC.
2. lead alliance shall offer the advertising spaces made available by the participating Affiliates to the Advertisers and vice versa.
3. The Advertisers notify lead alliance through which of the advertising spaces offered by the Affiliates they wish to market and sell their goods and services. The Advertisers communicate this decision to lead alliance via the platform.
4. Once a decision about the choice has been communicated, this is confirmed graphically on the platform.

### **A.5 Account and Contract Term**

1. The Participants' accounts for the lead alliance platform are established without time limit.
2. The contract between lead alliance and the Participant about the provision of the services described below is concluded for an indefinite period. The contract can be terminated by lead alliance or the Participant with a period of notice of 14 days. In the event of termination, lead alliance shall also deactivate the existing accounts.
3. Notice of termination pursuant to these provisions must be declared in text form, directly on the platform or via e-mail to [service.de@lead-alliance.net](mailto:service.de@lead-alliance.net).

## **A.6 Account Deactivation and Termination**

1. lead alliance is entitled to terminate the usage contract with one day's notice for the end of a calendar week and to deactivate the account of any Participant, who has not made any relevant payment to the account or has not claimed payment from the account during the previous 12 months and not responded to a corresponding e-mail deletion notification with a request for a contract extension.
2. In addition, lead alliance may take the following measures, if there are concrete indications of a Participant having violated legal regulations, the rights of third parties, these General Terms and Conditions, in particular A.3, A.7, B.1.4, B.2.3, B.2.5, C.2.2, C.2.3, C.3.1 and C.3.3, or if lead alliance otherwise has a justified interest, in particular to protect other Participants from fraudulent activities:
  - Warning to Participants
  - Restriction of platform usage
  - Temporary block
  - Permanent block
  - Freezing/cancellation of commission claims
3. In choosing the measure, lead alliance shall consider the justified interests of the affected Participant, especially by checking whether there are any circumstances indicating that the Participant was not responsible for the violation.
4. Further rights for extraordinary termination are explicitly reserved for the Participant and lead alliance. lead alliance is entitled to terminate the usage contract without notice and to deactivate the account, if there have been serious and persistent violations of these General Terms and Conditions on the part of the Participant, in particular the obligations pursuant to A.7 of these conditions.

## **A.7 Manipulations**

1. If a Participant makes a deliberate attempt to influence the statistics and therefore the amounts payable to them by corresponding manipulation attempts, the Participant shall be liable for payment of a penalty of €500 plus VAT for each ascertained attempt. The same applies if a Participant, who has already been barred due to conduct in violation of the contract, takes part in the program once more under a false name.
2. The penalty is payable to lead alliance.
3. Any attempt to bypass, manipulate or otherwise influence the systems, technologies, scripts, codes, accounting mechanisms and principles of lead alliance is prohibited and may result in prosecution of the perpetrator on account of fraud or attempted fraud.

## **A.8 Contract Termination**

1. When the account is deactivated, any existing credit shall be paid out.
2. A Participant, whose account was deactivated due to conduct contrary to contract, is not entitled to reregister on the platform. Violations of this provision obligate the Participant further to pay compensation to lead alliance for any resulting damage.

## **A.9 Warranty**

1. lead alliance is making its services, systems, technologies and solutions available to the best of its knowledge and technical capabilities. No guarantee is assumed for the up-to-dateness, accuracy, completeness or quality of the provided information or for the error-free and continuous availability of the services, systems, technologies or solutions.
2. Towards companies, lead alliance shall only be liable for damages if and when lead alliance, its authorised representatives or senior executives are guilty of premeditation or gross negligence, except for cases of violation of essential contractual obligations. In the case of other vicarious agents, lead alliance shall only be liable if there was premeditation and they violated essential contractual obligations intentionally or with gross negligence. Apart from cases of premeditation or gross negligence on the part of authorised representatives, senior executives or premeditated conduct of other vicarious agents of lead alliance, no liability shall exist for compensation for indirect damage, in particular for lost profit. Except for cases of premeditation and gross negligence on the part of lead alliance, its authorised representatives and senior executives, liability shall be limited to the damage typically foreseeable at the time of contract conclusion.
3. Towards private persons, lead alliance shall only be liable for premeditation and gross negligence. However, in the case of violations of essential contractual obligations, default or impossibility of service provision, for which lead alliance is responsible, lead alliance shall be liable for each culpable action of its employees and vicarious agents. Except for cases of premeditation and/or gross negligence on the part of authorised representatives, employees and other vicarious agents, lead alliance's liability shall be limited in its amount to the damage typically foreseeable at the time of contract conclusion.
4. The above liability exclusions and limitations vis-à-vis traders or consumers do not apply in cases where lead alliance assumes explicit guarantees and for damages from injury to life, limb or health as well as in cases of compelling legal regulations.

## **B. Special Provisions for Advertisers**

### **B.1 Advertiser Accounts**

1. lead alliance sets up and administers accounts for managing the remunerations.
2. After registration, Advertisers can start advertising campaigns as soon as they pay in some money and their account thereby contains the prescribed minimum credit required for a campaign. Invoices for Advertiser payments can be displayed in the account online and then printed out.
3. The Advertiser is obligated to adapt the particular web page relevant to the programs in such a way (e.g. by implementing a code made available by lead alliance) that lead alliance is able to effect the data acquisition required for remuneration purposes. This code may not be modified without lead alliance's written consent.
4. Depending on the concrete partner program, the Advertiser shall pay the relevant Affiliate a results-based remuneration when a successful business transaction has taken place to the Affiliate's benefit

(valid sale, click or lead). In addition, the Advertiser shall always pay lead alliance 30% commission on the net amount paid to the partners (plus VAT).

5. Advertisers can see the applicable remuneration for an advertising campaign from their account.
6. For this purpose, lead alliance's technology generates the statistics required for accurate remuneration and makes these available to the Advertiser within the account. These statistics alone shall be the basis for the appropriate remuneration for the advertising campaign. The same applies for the processing periods for any leads and sales.
7. The Advertiser must ensure that their account contains sufficient funds to make any necessary payment, i.e. provides sufficient coverage, at all times. Sufficient coverage exists if payment for successful Affiliate activities is ensured at all times. As soon as calculations using the lead alliance technology indicate that sufficient coverage is no longer given, the relevant campaign may be deactivated. No interest shall become due for any account credit amounts.
8. lead alliance shall inform Advertisers about any accrued payables that cannot be paid from their account due to lack of funds. The Advertiser is then obligated to make immediate payment for these payables to lead alliance. Should the settlement of the payables not be effected within 10 days from the respective deficit arising, the relevant Advertiser shall be in default.

## **B2. Provision of the Advertising Materials**

1. The Advertiser shall make the advertising materials to be used by the Affiliates available to lead alliance according to the technical stipulations provided by lead alliance.
2. The Advertiser gives permission for the Affiliates to obtain access to their advertising materials and the information associated with the advertising materials, including design, target URL, analyses as well as other data, via the platform
3. The Advertiser has sole responsibility for the design as well as the target URL of an advertising material as well as the accessibility of the webpage. lead alliance is entitled to reject an Advertiser's advertising materials without stating any reasons and to adapt them to any technical requirements.
4. The Advertiser guarantees that the provided advertising materials as well as the linked target page neither violate existing law nor infringe or violate the rights of third parties, of whatever type.
5. If there is a justified suspicion that the advertising materials made available by the Advertiser contain illegal or immoral content (in particular images of a sexual or violent nature) or violate the rights of third parties, the Affiliate and/or lead alliance have the right to reject these advertising materials or suspend the posting of the advertisement until such time as the Advertiser has provided a response and the matter has been resolved or the Advertiser is successful in clearing up the suspicion. A justified suspicion within this context exists in particular when such a suspicion is induced by administrative or legal proceedings or by preliminary criminal proceedings or if there are clear indications for such proceedings being initiated in the near future. The same applies if the Affiliate and/or lead alliance are requested by a third party to desist from the continued posting of the advertising materials because these are allegedly illegal or immoral or violate the rights of third parties, unless the claim by the third party is not obvious and unfunded for reasons discernable to the

Affiliate or lead alliance. The Affiliate or lead alliance shall inform the Advertiser immediately about the rejection or blocking of the advertising materials, stating the reasons.

6. No. 5 applies correspondingly if the advertising material provided by the Advertiser for the purpose of publication contains links to illegal or immoral contents or to contents violating the rights of third parties. The Affiliate and lead alliance further reserve the right to reject certain types of advertising material due to their content, their origin or their technical quality based on consistent, objectively justified principles if their posting is unreasonable for the Affiliate.
7. The Advertiser shall indemnify lead alliance from any claims by third parties in connection with violations pursuant to No. 3 and undertakes to compensate lead alliance for all disadvantages and damages incurred in this connection.
8. Where adware is used, written consent must be obtained from lead alliance and from the Advertiser before the beginning of the relevant campaign.

### **B.3 Granting of Rights**

1. The Advertiser grants lead alliance and the respective Affiliate accepted pursuant to A.4 a simple, but non-exclusive, non-transferable, worldwide usage right in the provided advertising material, which is limited in time to the contract term and with respect to content to the contract purpose.
2. The above-mentioned granting of rights also includes the right to store, duplicate, publish, digitise as well as process the advertising material, if that is necessary to execute the contract.

### **B.4 Placement of Advertising Materials**

1. lead alliance shall endeavour to place the Advertisers' advertising materials onto the Affiliates' web pages as quickly as possible. However, lead alliance does not assume any guarantee for the starting time of an advertising campaign, the frequency of the advertising material placement nor for any positive campaign results.
2. Where the provided advertising materials are to be placed/positioned in each case is at the sole discretion of lead alliance and the associated Affiliates.

### **B.5 Enticing Affiliates Away**

Advertiser are prohibited from contacting Affiliates or having contact established with Affiliates via third parties in their own interest and to the detriment of lead alliance or to by-pass it, for instance for the purpose of enticing them away to join their own or external partner programs. For each contravention against the above-mentioned obligations, the parties agree a penalty of €1,500.00. Special remunerations or increases in commission payments must be approved by lead alliance.

## **C. Special Provisions for Affiliates**

### **C.1 Affiliate Account**

1. lead alliance sets up and administers accounts for managing the remunerations.
2. The Affiliate receives a results-based remuneration from lead alliance on principle. The amount of remuneration and the types of business transactions for which it is paid in each case depend on the

respective partner program of the Advertiser. The Advertiser can change the conditions of the partner program with effect for the future. Affiliates have no entitlement vis-à-vis lead alliance for the operation of a program at certain conditions or at all. The conditions of the partner program can be viewed on the partner site at any time. An entitlement to any reimbursement for costs or expenses for the advertising activities exceeding this results-based remuneration is excluded.

3. The Affiliate's claim against lead alliance for the results-based remuneration from lead alliance only arises and becomes payable if all the following conditions are met, where these are applicable depending on the type of business transaction (valid sale, click or lead):
  - successful business transaction (valid sale, click or lead)
  - logging of the business transaction via lead alliance
  - acceptance of the goods delivery by the end customer
  - end of the statutory cancellation period
  - full payment by the end customer
  - no abuse within the meaning of A.7 of these General Terms and Conditions
  - confirmation of the business transaction by the Advertiser
4. Remunerations credited to the Affiliates' accounts are paid out by the 15th day from the end of the relevant accounting month at the latest, assuming that a correct billing address is available and that a minimum net account credit of €25,00 exists. If the appropriate conditions exist, payments are also effected several times a month.
5. The Affiliates declare their consent to accounting by self-billing, where lead alliance issues one credit note per month once an appropriate payment amount has been reached.
6. Disbursement of the respective payment to the Affiliate shall be effected on the basis of the statistics produced via lead alliance. These shall be made available within the accounts.

## **C.2 Registration of Advertising Spaces**

1. Any web presence registered by the Affiliates as well as the contents thereof must conform at all times to the current legal regulations.
2. Affiliates may only register their web presence with lead alliance, if they are the registered owners. Should the web presence registration be in the name of a third party, lead alliance can demand a corresponding proof of the authorisation for the registration with lead alliance.
3. Affiliates may only register advertising spaces, whose contents do not violate existing law. lead alliance is entitled to check advertising spaces registered by Affiliates for illegal contents using suitable technical aids. Should the advertising spaces of the Affiliates contain illegal or even criminally relevant content, the respective advertising spaces as well as the involved Affiliate shall be excluded from participating in the program immediately and the Affiliate account shall be blocked. Affiliates give an explicit assurance that the advertising spaces they register contain no pornographic, violent, anti-constitutional or otherwise criminal content.

### **C.3 Use of Advertising Spaces**

1. Advertising materials may only be used on websites or other advertising spaces, which have been released by lead alliance and the respective Advertiser.
2. The Affiliate may not modify the provided advertising materials and codes without the appropriate explicit consent of lead alliance. Any modification performed without consent entitles lead alliance to terminate the contract without notice while retaining any credit amounts.
3. To ensure accurate statistics and the associated billing, Affiliates undertake to incorporate the respective advertising materials by the proper technical means. Affiliates have sole responsibility for the correct incorporation. For any advertising material that is incorporated incorrectly there shall be no claim for remuneration whatsoever. Liability on the part of lead alliance and of the Advertisers for any disadvantages incurred by Affiliates in the event that they have not incorporated the advertising materials correctly is excluded explicitly.
4. Nor is it permitted to let Participants in the Affiliate advertising space share in the income from the placement of advertising materials by inducing them to click on advertising materials, unless the Advertiser and lead alliance have consented to this explicitly.
5. For remunerations accrued through violations as described above, all claims for disbursement are forfeited and lead alliance is entitled to exclude the Affiliates concerned upon gaining knowledge of such cases as well as to demand flat rate compensation from the Affiliate concerned amounting to twice the sales revenue achieved by any such violation. In cases of doubt, the Affiliate concerned is entitled to provide proof that the damage is less than the figure provided by the Advertiser/merchant and lead alliance, respectively.
6. The Affiliate must observe the statutory prohibition of spamming at all time. The Affiliate is thereby prohibited from sending unsolicited e-mails with commercial advertising to third persons, unless the recipients gave their agreement before receiving the first e-mail ("opt-in process"). Before each transmission, the Affiliate must ensure that the relevant recipient has agreed to receive the e-mail.

### **C.4 Responsibility for Affiliate Advertising Spaces**

Affiliates have sole responsibility for their web pages, including their content as well as their maintenance and operation. They also have sole responsibility for the proper implementation of all technical stipulations, in particular adherence to stipulations made here and stated on the website.

### **C.5 Warranty for Advertising Materials**

lead alliance provides no explicit or implied guarantee to the Affiliate regarding the advertising materials made available by the Advertiser or their goods and services and therefore rejects explicitly any guarantee for minimum quality or minimum suitability for a specific purpose. This also applies to any conditions regarding the non-violation of the rights of third parties.

## **D. Reservation of Right to Modification**

lead alliance is entitled to change or make additions to these General Terms and Conditions at any time. The other party has the right to object to such changes. If the other party does not object to the changed

conditions within 6 weeks from receipt of the change notification, these shall take effect as per the notification. lead alliance shall inform the other party in writing or via e-mail specifically before the start of the response period that the change notification shall be deemed to have been accepted if the other party does not object to it within 6 weeks.

### **E. Final Provisions**

1. This contract is subject to German law.
2. Nuremberg shall be the place of jurisdiction for all disputes arising from this contract, if the other party is a registered trader.
3. This contract does not establish a company with external effect in legal matters nor a working, agency, factor or employment relationship and therefore does not authorise either party to make binding declarations on behalf of both parties or of the respective other party or to obligate or represent it in any other way.
4. Should individual provisions of this contract be ineffective or not practicable, this shall not affect the remainder of the contract, which shall remain effective and practicable, to the extent that it conforms to the presumed intention of the parties. In that case, the ineffective or impracticable provision shall be replaced by a provision, which comes closest to the intention of the contracting parties in agreeing the particular provision. This applies similarly to any gaps in this contract.

As at 01.07.2009