

# SolAds Media GmbH – Terms and Conditions for Publishers

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## General Terms and Conditions for Publishers

Updated: 1 April 2015

### 1. General Information and Scope

- 1.1. By sending off the offer to conclude a contract, the Publisher accepts that these general terms and conditions shall take precedence over its different contract terms.
- 1.2. The use of the SolAds platform and SolAds products is only permitted for entrepreneurs and their employees authorised to represent them. Entrepreneurs are natural or legal persons or partnerships with legal personality, who act in their commercial or independent professional activity when concluding a legal transaction.
- 1.3. Neither this agreement nor any rights or interests resulting from this may be transferred by one party without the written consent of the other (the consent shall not be unreasonably withheld or delayed).
- 1.4. The waiver or failure of the execution of a right governed by this contract by a party shall not be deemed a waiver of that or any other right under this contract.

### 2. Definition of Terms

In these general terms and conditions, the following terms shall have the meaning explained below, unless the context requires a different meaning:

<b>SolAds</b>	SolAds Media GmbH, Ackerstraße 35, 10115 Berlin
<b>Contract</b>	means the agreement, which was signed by the Publisher and SolAds, and upon which these terms and conditions are based
<b>Website operators</b>	are contracting partners of SolAds who provide us their own advertising spaces on the Internet. Advertising space may be any suitable spaces, in particular websites in the strict sense or apps (computer programmes for use on mobile devices)
<b>Marketers</b>	are contracting partners of SolAds, who represent website operators.
<b>Publishers</b>	are our contracting partners and can be website owners or marketers. The terms "partner" or "associate" can be used as synonyms.

<b>Advertising space</b>	are the areas provided by Publishers on the Internet. This may include websites in the strict sense, but also apps or other appropriate marketing areas.
<b>Advertising environment</b>	is the respective website, in whose context the advertising space is displayed. This may include websites in the strict sense, but also apps or other appropriate marketing areas.
<b>Advertisement</b>	means links, code, promotional text and graphics that are generated by SolAds servers to serve the advertising space of a Publisher.
<b>Bona fide Internet user</b>	denotes a real, living, individual person who lawfully performs Internet searches, page views, advertising space views and clicks. To avoid any doubt, robots, spiders, hitbots, scripts, software, hidden links, scrapers and other mechanical, artificial or fraudulent mechanisms as well as people who are paid for performing searches, page views, advertising space views and clicks are excluded without restriction.
<b>Publisher commission</b>	refers to the amount of commission payment that is calculated when the agreed terms are applied for each individual impression or each click-through.
<b>Click-through or click</b>	means the event that occurs when the link that is connected to an advertisement is clicked by an Internet user so that the user is redirected to the site that is connected to the link.
<b>Impression or pop-up</b>	Indicates the display of the advertisement within the viewport of the user interface.
<b>CPC</b>	stands for "cost per click" and refers to a billing model on the Internet. This results in a payment obligation for the advertising customer if the internal user clicks on the advertisement
<b>CPM</b>	stands for "cost per mille" and refers to a billing model in online marketing. This results in a payment obligation for the advertisers as soon as the advertisement can be perceived by Internet users. The level of remuneration is stated per thousand possible perceptions of the advertisement, usually through website hits.

### **3. Conclusion of the Contract**

- 3.1. To participate in the SolAds network, the Publisher must register on the SolAds website. SolAds reserves the right to verify the identity of the Publisher.
- 3.2. Each Publisher has to have a bank account.
- 3.3. By completing the registration form and accepting these general terms and conditions for Publishers, the Publisher makes an offer to enter the agreement on participation in the SolAds network with the content of these general terms and conditions for Publishers.
- 3.4. If SolAds accepts the offer, the Publisher shall receive a confirmation e-mail. SolAds reserves the right to refuse an offer; in this case, the data transmitted with the registration form shall be deleted immediately.
- 3.5. After activation of the Publisher account and entry of the login data, the SolAds network can be fully utilised for the first time. All personal details and information can be reviewed and amended in the SolAds interface.

### **4. Term and Termination**

- 4.1. The contract shall be valid from the agreed start date and shall continue to run until it is terminated by either of the Parties.
- 4.2. SolAds may terminate the contract with immediate effect in writing to the Publisher if SolAds is of the opinion that
  - 4.2.1. The Publisher has broken guarantees under the contract; or
  - 4.2.2. The Publisher brings about Internet users that are not bona fide Internet users, and thus breaks the obligation under clause 5.1.2 of these terms and conditions; or
  - 4.2.3. In the case of any other breach of the contract, where the breach was communicated to the Publisher by SolAds and has not been remedied within 14 days after such notification; or
  - 4.2.4. SolAds believes at its sole discretion that the Publisher performs actions with fraudulently intent to increase the publisher commission.
- 4.3. Each Party has the right to terminate this agreement in writing with immediate effect if the other Party becomes insolvent or bankrupt or makes an arrangement with creditors, or if a company is dissolved for any reason other than restructuring or a merger.

- 4.4. Regardless of other outstanding rights, duties and liabilities, the rights and licences granted under the contract shall be deemed cancelled upon contract termination with effect on the date of termination of the contract. Both Parties shall take all reasonable measures to ensure that the content and materials of the other Party are removed from its own content and materials, and they react promptly to reasonable inquiries from the other Party in this context.
- 4.5. While the termination of this contract does not affect the accrued rights and obligations of the Parties, no Party shall have additional rights to compensation due to the termination of the contract.
- 4.6. Without prejudice to other rights or legal remedies that SolAds has in case of breach of the contract by the Publisher, SolAds shall have the right to suspend the supply of advertising without notice and without liability with respect to the Publisher or a third party to until the breach has been remedied.

## **5. Obligations of the Publisher**

- 5.1. With regard to the payment of the publisher commission by SolAds, the Publisher agrees to the following points for the duration of the agreement:
  - 5.1.1. To display advertisements in the format received from SolAds in the advertising space, or in the manner agreed in writing with SolAds;
  - 5.1.2. To make reasonable efforts to lead bona fide Internet users to advertising spaces and to take all reasonable steps to ensure that Internet users who are not bona fide Internet users are not led to this advertising space. The decision of SolAds as to whether an Internet user is a bona fide is final;
  - 5.1.3. To respond within a reasonable period of time to calls from SolAds to limit the number of requests that are sent to SolAds in a given period of time;
  - 5.1.4. To provide the IP address and user agent of bona fide Internet users for any request that is sent to SolAds;
  - 5.1.5. To provide SolAds with subpartner IDs for each request. SolAds may ask the Publisher at any time to block all requests from certain sub-partner IDs. This requirement applies to all Publishers who supply SolAds with traffic from its own Publisher network.
  - 5.1.6. To comply with the prompt from SolAds, not to display SolAds advertisements on all advertising spaces specified by SolAds; and
  - 5.1.7. To ensure that the login data allocated to the Publisher is kept secure and confidential and not disclosed to third parties.

## **6. SolAds Obligations**

Provided that the Publisher fulfils the obligations under point 5, SolAds shall:

- 6.1. Provide the Publisher with the necessary advertising media code to integrate the advertisements on the Publisher's advertising spaces; and
- 6.2. To support the Publisher to a reasonable extent in the integration of the code.

## **7. Price and Payment**

- 7.1. SolAds shall give the Publisher a user name and password with which he can access statistics on <https://admin.solads.media>, which also include the amount of his publisher commission.
- 7.2. Provided that the Publisher has complied with the terms of this contract, SolAds shall pay the publisher commission to the Publisher in accordance with section 7.3.
- 7.3. The Publisher shall send an invoice to SolAds in the amount of the publisher commission for a specific month within 30 days after the end of this month. SolAds shall pay the publisher commission to the Publisher within 30 days of the receipt of a correct invoice.
- 7.4. The publisher commission for a given month shall be paid only if the Publisher has sent SolAds a correct and valid invoice within six months after the end of the relevant month.
- 7.5. SolAds' decision on the number of valid clicks and impressions during this period is final unless there is a clear error. SolAds decision on which proportion of the publisher commission comes from sources or mechanisms that are not bona fide Internet users and whether a publisher commission shall be paid for this is entirely at the discretion of SolAds. Decisions made by SolAds in this regard are final.
- 7.6. If SolAds notices that the publisher commission was paid for Internet user traffic that did not come from bona fide Internet users, SolAds shall be entitled to deduct the corresponding amount from the publisher commission of the next payment due.

## **8. Granting of rights, self-promotion**

- 8.1. The Parties shall each grant one another a non-transferable, royalty-free, territorially unrestricted, non-exclusive licence for use of their respective brands and trademarks during the term of this contract. Their use is limited to the use of

the SolAds platform / SolAds products and the implementation of the provisions of these general terms and conditions.

- 8.2. Moreover, SolAds shall be allowed to use the trademarks of the Publisher for its own marketing purposes. For this purpose, the Publisher shall grant SolAds a non-transferable, royalty-free, non-exclusive licence, not limited by time and space, to use its brand and company symbol. This includes in particular the right to reproduce and disseminate these to the public in online media, including the Internet, or offline (e.g. using data storage media, printed materials or other advertising materials).

## **9. Publisher Guarantees**

The Publisher hereby guarantees the following points with respect to the SolAds:

- 9.1. The Publisher has all rights and the authority to enter into this contract, to grant SolAds the rights and licences that are specified in this contract and to fulfil all obligations stated in this contract and shall retain these during the entire contract period.
- 9.2. The Publisher has complied with all relevant legislation in connection with the obligations set forth herein and shall comply with them, including, but not limited to all relevant data protection laws and regulations. The Publisher has all necessary rights, has obtained approvals and consents and shall obtain these (including necessary consents from individuals in connection with the processing of their personal data) in order to meet the obligations stated in this contract.
- 9.3. The advertising environment surrounding the advertising space of the Publisher and its sub-partners does not contain offensive, libellous, or defamatory, or infringe any copyright, trademark or intellectual property rights or violate the privacy of the individual or illegal advertising standards or against the laws of any country or jurisdiction, where the advertising area is accessible or contain disparaging material or incorrect information with regard to SolAds or its advertisers.

## **10. SolAds Guarantees**

SolAds hereby guarantees that it possesses all rights and the authority to enter into this contract, to grant the Publisher all rights and licences specified in this contract and to fulfil all obligations under this contract and shall maintain these during the contract period.

## **11. Damages**

In the case of any liability, claims, proceedings or expenses arising from or in connection with the matters referred to below, the Publisher shall provide SolAds with compensation, make SolAds exempt from liability and defend SolAds at its own expense:

- 11.1. Any violation of the Publisher guarantees or other guarantees issued by the Publisher or his sub-partners in relation to the advertising environment of the advertising space, other than the advertising displayed by SolAds (including, but not limited to, website content, intellectual property rights associated with such content and violations of laws relating to obscenity and data protection); and
- 11.2. All other significant violations or omission of duties under this contract.

## **12. Warranty and Liability**

- 12.1. SolAds shall strive for the highest possible availability of SolAds sites, ad servers and statistics.
- 12.2. Where permitted by law, however, SolAds undertakes no warranty. In particular, neither SolAds nor any of its employees, agents, consultants or contractors shall issue warranties or make any statements regarding the services, programmes or other information that is made available through them or issue warranties that they will meet the needs of advertisers or will continuously be in operation, are secure or error-free, and that the use accordingly takes place at the advertising customer's own risk.
- 12.3. In particular, SolAds shall not be liable for any failure or delay caused by conditions beyond its reasonable control, including, but not limited to, Acts of God, acts of any government, terrorism, natural disasters, strikes and blackouts. In particular, SolAds shall also not be liable for any acts or omissions of telecommunications or Internet providers that are not under the control of SolAds, or those caused by the overload of Internet connections.
- 12.4. In case of breach of contractual or pre-contractual obligations by SolAds or its agents, SolAds shall only be liable for intent and gross negligence. This does not apply to liability for damages resulting from injury to life, limb or health. This shall also not apply to the breach of such contractual obligations of particular importance to the fulfilment of the contract (cardinal obligations).
- 12.5. The liability for a breach of cardinal obligations shall be limited to contract damages foreseeable at the time the contract is concluded.

- 12.6. Any further liability for damages is excluded, regardless of the legal nature of the claim asserted. This is especially true for torts in accordance with §§ 823 and 831 of the German Civil Code (BGB). Any potentially unlimited liability under the provisions of the German Product Liability Act remains unaffected.

### **13. Changes to these General Terms and Conditions**

- 13.1. SolAds may change these general terms and conditions from time to time in order to adapt to changes in the legislation or the current organisational or procedural requirements.
- 13.2. The applicable general terms and conditions are placed on the SolAds website so that the Publisher can read, download and save them locally. Outdated versions shall be provided as needed.
- 13.3. The Publisher shall be notified about changes to the conditions via e-mail at least 7 days prior to their entry into force. Unless the Publisher contradicts the validity of the new general terms and conditions within two weeks, the general terms and conditions shall be deemed accepted. SolAds shall separately notify the Publisher of the importance of this two-week period, the right of appeal and the legal consequences of silence in the email regarding the change. If the Publisher contradicts the changed conditions within the aforementioned period, the Publisher and SolAds shall each be entitled to terminate the contract without notice.

### **14. Other Agreements**

- 14.1. Changes to the terms and conditions which are concluded between SolAds and the Publisher during the term of the contract shall be effective only if made in writing.
- 14.2. The place of performance and the sole place of jurisdiction for all disputes arising from this agreement is Berlin. The contract is subject to German law. The application of the UN Sales Convention (CISG) is excluded.
- 14.3. Should individual clauses of these terms and conditions be or become invalid, this shall not affect the validity of the remaining clauses. SolAds and the Publisher shall replace the invalid clause by a valid clause that most closely reflects the invalid clause in an economic sense. The same applies to gaps in these general terms and conditions, which are identified at a later date.