

GTC – General Standard Terms and Conditions of ADCELL

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I. General Terms

1. Purview

The following General Standard Terms and Conditions (GTC) incorporate the standard rules for the use of the internet partner program network ADCELL of the association Firstlead GmbH (thereinafter referred to as ADCELL) and for all future legal or similar transactions between the user and ADCELL. General Standard Terms and Conditions differing from these conditions will not find application, unless ADCELL has explicitly recognised the different or opposing user GTCs.

2. Services / Definitions

- 2.1 “Partner Program” denotes a remuneration program realised by ADCELL through the platform, which is paid remuneration for the performance of media and sales services to.
- 2.2 “Programmbetreiber” (program operator) is everyone intending to market certain products through the partner program. The program operator takes economic responsibility for the partner program.
- 2.3 “Publisher” is an Internet service operator who integrates the advertising media provided through the ADCELL platform in his own online offer to generate profit.
- 2.4 “User” denotes all natural and legal persons or entities who use the ADCELL platform for the realization or processing of partner programs as well as for the participation in a partner program, irrespective of whether they use it as publisher or program operator.
- 2.5 “Distribution goals” denote actions of customers recruited by the publisher, who the program operator intends to reach and whom he pays remuneration for. ADCELL is specialised in the following distribution goals: The generation of actions by acquired visitors (“Leads, pay per Lead, PPL”) and the sale of products (Sales, pay per Sale, PPS”) once only or constantly (“Pay per Lifetime, PPLT”).

3. Entry Conditions

The use of ADCELL is not permitted to minor and other persons with no or limited legal competence nor to persons who have explicitly been excluded by ADCELL from the use of the platform.

4. Registration / User Account / Contract Completion

- 4.1 The use of ADCELL platform requires a user registration with ADCELL and the creation of a user account. Through this registration, user and ADCELL conclude a contract for using the platform. The user is obliged to give complete and truthful data at the registration. The user is obliged to update his user account data without delay in the event of changes of the collected data after the registration.
- 4.2 The user is to keep his access data secret, particularly the password, and protected from unauthorised access by a third party. In the event of loss or detected or suspected third party misuse of access data the user must inform ADCELL at once. In these cases, ADCELL is entitled to block the user account immediately.
- 4.3 The user hands in an offer for settling a user agreement with ADCELL by dispatching his registration form. The user receives a confirmation via email with access data for the password-protected user area of the ADCELL platform if his registration was accepted by ADCELL. With reception of the confirmation email a user agreement is settled between ADCELL and the user.
- 4.4 Multiple user registrations and the creation of multiple user accounts must get prior permission by ADCELL.

5. Statistics / Invoicing / Notifications

- 5.1 ADCELL creates a password-protected user account for every user. This includes convincing statistics as well as the preparation of credited remunerations.
- 5.2 The securitization of credits, billing and cancellations take place exclusively online through deposit of electronic documents in the password-protected user account. Should the user be wishing to get invoicing documents by mail, ADCELL is authorised to levy an administrative charge for 2,50 EUR each document.
- 5.3 ADCELL will inform the user about important updates and changes of entry and remuneration conditions of partner programs exclusively via email. Should the user be explicitly not wishing to receive any information by email, he is obliged to inform himself frequently about any updates and changes of the ADCELL platform.

6. Term of Contract / Termination

- 6.1 The contract between the user and ADCELL will be concluded for an indefinite period and may be cancelled by both parties at any time at the end of the following day. The termination may be limited to certain partner programs. In this case, merely further participation in affected partner programs or the organization of the affected partner programs respectively will be refused to the user. Principally, using the ADCELL platform will remain possible. In case of partner program termination, no explicit cancellation concerning the participating publisher is necessary. An appropriate notification is enough. This Agreement will terminate automatically if the user is inactive for more than 24 months. In this case, the user account will automatically be fully closed by the ADCELL system. Therefore, the account is no longer available for use and impossible to reactivated.
- 6.2 The right of instant termination for grave course will remain unaffected. A grave course is existent in case of the violation of regulations in clauses 10. and 17.1 of these GTC.
- 6.3 In case of contractual relationship termination between the user and ADCELL, the remaining credit on the transaction account at the affected date will be calculated. This credit will be disbursed at the 15th of the month following the contract termination. The disbursement will only occur with special request by the user if the remaining credit should be less than 25 EUR. In this case, a service charge of 5 EUR will be levied. Should the service charge exceed the remaining credit, ADCELL will offset the credit against the service charge and carry the deficit.

7. Liability of ADCELL

Regardless of the legal foundation of liability ADCELL is only liable for those damages or futile expenses that are due to a breach of those contractual obligations whose completion enables the adequate accomplishment of the contract and in whose adherence the user may trust, and which are typically predictable. This restriction is invalid in case of grossly negligent or deliberate damages and for damages that occurred through injury of life, body or health of one person. Also exempted are damages included in the Product Liability Act and cases of guarantee acceptance.

II. Special Conditions for Publisher

8. Participation in Partner Programs

- 8.1 ADCELL presents all available partner programs in a special program selection. This may be accessed by the publisher through the password-protected user account. Should the participation in a certain partner program be dependent on special conditions, this will be quoted in the program description in the program

selection. Publishers have the possibility of participating in all partner programs as far as they fulfil the special requested conditions. However, there is no claim on participation in certain partner programs.

- 8.2 The participation in a partner program results from the integration of an advertising media provided by the partner program in the publisher's internet offer or by provision of other destined media services by the publisher for the partner program.
- 8.3 In case of non-fulfilment of special partner program conditions or effective notice of cancellation but provided advertising media in the internet offer by the publisher is provided, no claim on payment for reached sales goals is admitted.
- 8.4 Changes in participation and remuneration conditions of a certain partner program shall be notified to the publisher by email (cf. chapter 5.3) and shall take effect at the earliest at the beginning of the following working day from 00:00 hours.

9. Integration of Advertising Media

- 9.1 Should the publisher fulfil general and special participation conditions of a certain partner program, he will be granted a special un-transferable right for the duration of his partner program participation. This right includes the use of advertising media provided by the program operator on the ADCELL platform for advertisement. Only a concrete destined way of usage is contained in this special right. It is not permitted to change existing advertising media or to use it for any other than the destined advertising purposes.
- 9.2 The publisher is solely responsible for the correct technical integration of advertisement media into the publisher's Internet offer. The publisher knows in the case of faultily integration of advertising media, turnovers might not be detected or assigned correctly and thus cannot be paid. The HTML-code, provided by ADCELL for integration an advertising medium, may not be changed. Changes are only allowed as far as they are compulsory for the integration of advertising media in an ad server.
- 9.3 The publisher is solely responsible for the compliance of all data protection regulations to all users of his Internet offer. The publisher knows the application of certain cookies contains the duty of disclosure and possibly the necessity of approval by users.

10. Illegal Actions

- 10.1 The publisher is obliged to refrain from using advertising media provided by the ADCELL platform on Internet pages with illegal contents. Especially prohibited are the following:

- pages with criminal or disorderly content,
- pages violating third party rights (normal and ancillary copyright, trademark rights, patent law, utility and design patent, right of naming, etc.); this also includes violations of law by the use of certain domain names for addressing the internet offer,
- pages with labels of unconstitutional organizations,
- pages with pornographic or adult content (excluding advertising media of partner programs in the erotic category)
- pages violating morality,
- pages with discriminating statements or designs concerning race, sex, religion, disability, nationality, sexual orientation or age.

10.2 The publisher is obliged to verify the legitimacy of contents on the internet pages offered by him before integrating the advertising media provided by ADCELL.

10.3 Manipulation of the ADCELL-System by technical devices or other means to obtain remuneration surreptitiously is prohibited. Specially forbidden are:

- the generation of “leads” and “sales” by the publisher himself through the use of own, wrong or third-party data,
- the generation of web pages or the implementation of advertising efforts animating customers to conduct actions without any real interest.

10.4 The integration of advertising media in so called “paid4” services, where customers get refunds or other benefits from the publisher, requires explicit approval by the program operator. The approval may be given in the program operator’s special terms and conditions.

10.5 The publisher’s website must not be designed in a way that might cause confusion with the program operator’s webpage. The publisher must include an imprint on his pages that is in accordance with legal requirements and identifies himself as operator of his offer.

10.6 Forwarding advertisement emails by the publisher is only allowed if it is explicitly announced in the special terms and conditions of a certain partner program. Also, in such cases, the publisher is obliged to refrain from sending advertisement to recipients who have not explicitly and provably consented in receiving emails with advertising content.

11. Publisher remuneration

- 11.1 In case of the achievement of predetermined sales goals, the publisher is entitled to the performance-related remuneration according to the remuneration conditions stated in the program description included in the program selection.
- 11.2 The gathering of the publisher's commissionable activities and the settling take place on the ADCELL platform. Earned and approved remunerations will be credited to the publisher's internal transaction account that is administered by ADCELL. A booked remuneration implies that the program operator's transaction account administered by ADCELL contains enough credit. There is no interest paid on the publisher's credit on his transaction account.
- 11.3 The billing will occur in a credit memo procedure. The publisher may request the transaction of the credit amount on his bank account until the 10th of the following month if the credit should be more than 25 EUR at the end of the month. An accordant function for this purpose is available in the password-protected area. After this registration, ADCELL will prepare a credit in favour of the publisher and transfer it to the denoted bank account on the 15th of the following month.
- 11.4 The paying out of the credit includes sales tax for resident taxpayers if the publisher is liable to tax on sales and if he has proven his liability to tax on sales in an appropriate way by fax or email.

12. Publisher Liability

The publisher knows in case of illegal actions according to clause 10.1, 10.5 and 10.06 not only he himself but also the program operator and/or ADCELL will be filed a claim by third parties in the event of hereby-justified violations of law. The publisher must indemnify ADCELL from all liabilities claimed by third parties or the program operator in case of law violation by the publisher, including the fact that he is integrating advertising media provided by ADCELL into his internet page and by breaching his duties concerning clause 10.2, 10.5 or 10.6. The indemnity also applies to all required costs accruing ADCELL for an appropriate attorney.

III. Special Conditions for Program Operators

13. Organizing a Partner Program

- 13.1 Realizing a partner program through the ADCELL platform requires a special agreement between the program operator and ADCELL including these GTCs. These special conditions include particularly the payable sales goals, special participation conditions and the exact remuneration conditions.

- 13.2 The program operator must pay commissions to ADCELL for all turnovers generated by the publisher arranged by ADCELL. This commission, whose amount will be arranged individually by the program operator and ADCELL, will be stated as network commission in the password-protected user account on the ADCELL platform. The commission will be due with releasing the publisher's earned, turnover based remuneration (cf. clause 15) and collected from the program operator's transaction account by ADCELL (cf. clause 14).
- 13.3 The program operator may only change his participation conditions applying to his partner program according to prior agreement with ADCELL.
- 13.4 The program operator knows every publisher fulfilling the terms and conditions for the partner program may participate in the partner program immediately and without further examination of the content of his website. Furthermore, he knows ADCELL examines only randomly a publisher's website content and the publisher's fulfilment of general and special terms and conditions. However, ADCELL does not provide warranty that that any publisher participating in a partner program fulfils all participation conditions.

14. Account Balancing with the Program Operator

- 14.1 ADCELL provides the program operator with a transaction account. This account will be used for remuneration payments to the publisher and commission payments to ADCELL. No interest will be paid on the program operator's transaction account.
- 14.2 The program operator deposits money on his transaction account that is used for payments to publisher and ADCELL. Starting a partner program requires a credit of at least 500 EUR on the transaction account. The program operator must make sure that the credit on the transaction account is sufficient for open payments to ADCELL and the publishers at any time.
- 14.3 ADCELL will require the program operator to recharge his account as soon as the remaining credit will not suffice for expected payments to publishers and the allotting provisions to ADCELL for a period of one month. The recharge will be requested by ADCELL through sending a bill. The billing amount will be settled by ADCELL and covers all expected payments to publishers and allotting provisions to ADCELL of the following three months.
- 14.4 ADCELL is entitled to deactivate all partner programs of a certain program operator if he should not recharge his account as mentioned in clause 14.3 in two weeks' time.

15. Release and Cancellation of Remunerations

- 15.1 Only after approval by the program operator is the publisher released commission and remunerated. The approval for remuneration will be conducted by a suitable function in the dashboard (password-protected area) of the ADCELL platform. An approval will be given automatically if the program operator has not cancelled a remuneration claim in a certain period fixed by him an ADCELL, which may be 60 days at most.
- 15.2 The program operator may, within the period mentioned in 15.1, cancel faulty or expired remuneration claims with the help of suitable functions in the password-protected area and according to the partner program conditions. The program operator is committed not to undertake cancellations that are inadmissible according to the partner program terms and conditions.
- 15.3 The program operator is obliged to take care of the correct control and assessment of all accumulating remuneration claims. As soon as accumulated remuneration claims have been released manually or automatically by the program operator due to the expiration of the deadline, they are considered approved and will be billed by ADCELL. Rescinding a released remuneration is not possible.
- 15.4 As far as ADCELL will check certain remuneration claims according to a special agreement with the program operator for their plausibility and correctness, they guarantee that this examination has not given any proof for a faulty or wrong remuneration claim. Furthermore, ADCELL will not guarantee for certain sales goals of the partner program or the accuracy of data transferred by the user.

16. Recording of Turnovers and reached Sales Goals

- 16.1 The recording and allocation of reached sales goals and arranged turnovers respectively works by the help of cookies and corresponding tracking modules that must be integrated into the program operator's "landing page" or website. The program operator must assure that an appropriate acquisition technique is fully operative and integrated into his offer prior to launching the partner program. Furthermore, he assures that this acquisition technique will stay fully operative for the entire partner program duration.
- 16.2 The program operator is solely responsible for cookies placed by him at internet users. He is also particularly solely responsible for saving customer data relevant for reasons of data protection and obtaining acceptance relevant for reasons of data protection from the customer.

17. Customer Protection

- 17.1 The program operator is obliged not to undertake any actions or means to systematically alienate a publisher. The program operator is obliged to refrain from contacting publisher with the goal to integrate them in a partner program excluding the ADCELL platform.
- 17.2 In every case of the violation of the prohibition in clause 17.1, the program operator is obliged to pay a contractual penalty of the amount of an annual provision which ADCELL received during the last 12 months through turnovers made by the program operator with the affected publisher according to clause 13.2, however, at least 4,000.00 EUR. The contractual penalty will be charged with the damage incurred at ADCELL due to the breach.

IV. Miscellaneous

18. Change of GTC

ADCELL reserves the right to change these GTC. A change or a new version of this GTC will be sent to the user via email. The changed or new GTC is considered agreed if the validity is not contradicted within four weeks' time after the reception of the email. ADCELL will advise the user separately of objection possibilities, deadline and consequences in case of his inactivity.

19. Use of Personal Data

- 19.1 ADCELL will use and process personal data stated by the user in relation with his registration such as address, phone number, fax number and email address only for contract settling with the user. ADCELL abides by the applicable data protection regulations, the provisions of the General Data Protection Regulation (GDPR) and the Telemedia Act (TMG).
- 19.2 ADCELL will only forward personal user data to third parties if and as far as it is required for the processing of the contract with the user, if ADCELL is obliged by law or if it is required for the implementation of this GTC or other agreements made with the customer as well as rights and claims by ADCELL.

20. Final Provisions

- 20.1 If the user is tradesman in the sense of the commercial code, a corporate body under public law or a public separate asset, then court of jurisdiction for all legal disputes arising directly or indirectly from the contractual relationship between ADCELL and the user is Berlin.
- 20.2 The exclusive law applying to the contract between ADCELL and the user is the law of the Federal Republic of Germany excluding the German International Private Law.

V. Special Conditions: Advertising media hosting at ADCELL

21. Service obligations ADCELL

- 21.1 ADCELL's obligations to perform result from the service description of the respective product. Other commitments or ancillary agreements are only valid if confirmed in writing by ADCELL. ADCELL provides its advertising media hosting through Google Cloud Platform.
- 21.2 ADCELL is entitled to expand its services by adapting to technical progress and / or by making improvements. This applies if adaptation is necessary to prevent abuse or ADCELL is required by law to adjust its service.
- 21.3 If ADCELL provides additional services without additional payment, the customer cannot claim for fulfilment / performance. ADCELL has the right to discontinue, change or only offer such services, which were previously provided free of charge, within 14 calendar days, or to only offer them in return for payment. In this case, ADCELL will inform the customer in time.
- 21.4 ADCELL is obliged to provide customer service and technical support only according to the contract. In addition, ADCELL does not provide free customer support services - nor does ADCELL provide any direct support to customers of the customer.

22. Obligations of the Customer

- 22.1 The customer is obliged to back up all data transferred to ADCELL servers on a daily basis. These backups should not be stored on the same server to ensure a fast and cost-effective restoration of the data in case of a system failure. In case of data loss, the customer may re-upload the relevant data to the servers of ADCELL free of charge.
- 22.2 The customer may not violate any legal prohibitions and third-party rights (copyright, trademark, name, privacy rights, etc.) by using Banner Hosting with ADCELL. In the case of a breach of any of the obligations mentioned above, ADCELL may terminate its services with immediate effect (without notice) or block access to Customer's information.

23. Conclusion of contract, contract term, termination

- 23.1 The contract is concluded by acceptance of additional services. The surrounding conditions are expressly explained in the order transaction and are presented at the beginning of the membership of ADCELL (release of advertising material).
- 23.2 Unless otherwise agreed, the termination of the agreement is possible to the end of the month. During termination, the advertising media will be deactivated. Regardless of the time of deactivation, the fee for the entire month

must be paid. The time of conclusion of the contract is flexible for the current month - the fee for the first month is calculated pro rata. Unless otherwise agreed, the contract shall be extended by the respective minimum contract period of one month due to lack of notice.

23.3 ADCELLs right to extraordinary termination for important reason remains unaffected. An important reason is indicated if the customer

(a) defaults with his payment;

(b) substantially breaches its contractual obligations and does not cure such breach within a fair and reasonable period.

23.4 Each termination requires the written form to be effective. You can also cancel by e-mail if it meets the electronic form of § 126a BGB (electronic signatures with a sufficiently high security level, qualified electronic signature).

24. Prices and payment

24.1 Monthly fees and other usage-independent charges shall be due at the beginning of each month, if no different billing period has been agreed with the customer. All fees are based on the prices agreed with the customer for this purpose.

24.2 Without need of any warning, the customer shall be regarded as being in arrears if he shall fail to pay the due amount within 14 days from the time of it becoming payable and from the time of the receipt of the invoice or an equivalent payment schedule in the dashboard.

24.3 Unless otherwise agreed, payments will be processed over the chosen method of payment in the account of the customer.

24.4 The temporary blocking of services does not affect the customer's obligation to pay.

25. Warranty

Considering the current stage of technology, ADCELL points out that it is not possible to provide hardware and software by the provider (Google Cloud Platform) in such a way that it works flawlessly in all application combinations or can be protected against any manipulation by third parties. ADCELL does not guarantee that the hardware and software used or made available by Google Cloud Platform complies with the customer's requirements, is suitable for specific applications and furthermore that it is crash-, error- and virus-free. ADCELL only guarantees the customer that the hard- and software used and made available by ADCELL functions at the time of transfer, under normal operating conditions and with normal maintenance essentially according to the service description of the manufacturer.

26. Liability

- 26.1 Regardless of the legal grounds, ADCELL shall only be liable in accordance with the following provisions.
- 26.2 ADCELL is liable for damages in cases of intent and gross negligence pursuant to the statutory provisions.
- 26.3 In the case of ordinary negligence, ADCELL is liable only in the case of violation of essential contractual obligations, whose fulfilment mainly facilitates the proper performance of the contract and the observance of which the customer relies on, and may rely on, regularly. ADCELL's liability in this case is limited to the level of the foreseeable damages typical to the contract.
- 26.4 ADCELL is not responsible to the consumer in case of server failure of the provider (Google Cloud Platform).

27. Copyrights & licensing agreements

The customer is obliged to comply with all licensing agreements and copyrights in the advertising material provided. The customer guarantees this with the user of the hosting service. The copyright to images lies with the customer (despite hosting via Google Cloud Platform). Offences against the copyrights to images and licensing agreements will be fully passed on to customers who must bear the consequences.

28. Release from liability

The customer obligates himself to keep ADCELL free of any third-party contingent claims that are based on any illegal actions of the customer or in substance mistakes of information and images placed to the decree rest. This specifically applies to copyright, trademark, name, data protection and competition law infringements.

29. Transfer of data to third parties

In case of litigation or initiation thereof by suspected violations of copyright, trademark, name, data protection law or license agreements or in case of a breach of applicable law, ADCELL is permitted to pass on data of the customer to copyright holder or public authorities.