

GENERAL TERMS & CONDITIONS FOR PUBLISHERS

PIA Advertising BER GmbH

Version: 2022/001

Date: 03/01/2022

These General Terms and Conditions for publishers (“Publisher Terms”), specified at https://www.pia-advertising-ber.com/files/General_Terms_Conditions_PIA_Advertising_BER_for_Publisher.pdf are between PIA Advertising BER GmbH, with its registered office at Potsdamer Str. 91, 10785 Berlin, Germany, registered at Amtsgericht Charlottenburg under number HRB 180358 B having VAT No. DE815616591 (hereinafter referred to as “PIA Advertising BER”) and the Party submitting an application to participate as a publisher in partner programs set up on the PIA Advertising BER network platform (“PIA Advertising BER Platform”) or to use the services of PIA Advertising BER (referred to as “the Publisher”, “Publisher” or “You”).

PIA Advertising BER and the Publisher shall collectively be referred to as “Parties” and singularly as “Party”.

PIA Advertising BER operates an affiliate network (hereinafter referred to as the “PIA Advertising BER Network”), which provides quality performance marketing and related services for PIA Advertising BER’s advertising partners (hereinafter referred to as “the Advertisers”).

The PIA Advertising BER Network enables registered publishers to participate in partner programs (hereinafter referred to as “partner programs”) set up by Advertisers, which gear towards supporting the Advertiser’s online – and mobile games and / or related services (hereinafter referred to as “Advertiser’s Services”).

After successful registration to the PIA Advertising BER Network and acceptance to a partner program, the Publisher may incorporate and / or embed Advertiser Ads (as defined below) into the Publisher media (as defined below), which then may result into a payment for an action (as also defined below) according to these Publisher Terms and the respective campaign terms.

Article 1. Definitions.....	2
Article 2. General	3
Article 3. Services	3
Article 4. Sign-up and approval process	3
Article 5. License grant and proprietary rights.....	4
Article 6. Tracking and reporting.....	5
Article 7. Payment	5
Article 8. New partners	6
Article 9. Representation and warranties	6
Article 10. No exclusivity	7
Article 11. Indemnification.....	7
Article 12. Limitation of liability	8
Article 13. Non-disclosure	8
Article 14. Data Protection, Data Collection, Processing and Transfer of Data.....	8
Article 15. Term and termination.....	9
Article 16. Assignment	9
Article 17. Force majeure	9

Article 18. Governing law and disputes.....	10
Article 19. Entire agreement and variation.....	10

Article 1. Definitions

1. **Account Data:** all information regarding Ad performance on Publisher Properties as well as other information PIA Advertising BER makes available to Publisher over its Platform.
2. **Action(s) or User Activities:** means an act, click, install, lead, sale, view or other event effectuated by a third party (e.g. a Consumer) for which Advertiser compensates PIA Advertising BER, and PIA Advertising BER, in turn, compensates Publisher, such as CPA (Cost per Action), CPI (Cost per Install), CPL (Cost per Lead), CPC (Cost per Click) or e.g. CPM (Cost per thousand, e.g. impressions). Specific Action requirement for each Offer will be set forth within the Offer terms or in a separate IO.
3. **Ad Codes:** the advertising codes that PIA Advertising BER includes in the Ads.
4. **Ad(s) or Advertisement(s) or Offer(s):** text-based, graphical, interactive, rich media and video, or other online advertisements, including, without limitation, banners, buttons, towers, skyscrapers, pop-ups, pop-unders and video advertisements or similar, provided by Advertiser, on its own behalf or on behalf of any third party, to PIA Advertising BER, for placement via the Service.
5. **Ad Server:** the technology and functionality made available to Publisher via the Website, including tools for campaign management, ad trafficking and the logic system supporting targeting for optimization.
6. **Advertiser(s):** third party clients of PIA Advertising BER that submit Offers and Creatives for placement in PIA Advertising BER 's Network for the purpose of marketing Advertiser's products and services, either directly or indirectly, and generating Advertiser's desired Action.
7. **Agreement:** these general terms and conditions which apply to the agreement entered into by PIA Advertising BER and Publisher, arranging all base contractual matters between the Parties.
8. **API:** PIA Advertising BER 's application programming interface that specifies patterns of interaction between certain software components of PIA Advertising BER and Publisher.
9. **Commission:** the compensation PIA Advertising BER pays to Publisher under the Agreement, consisting of the agreed-upon percentage of the Net Proceeds actually collected and received by PIA Advertising BER in connection with applicable User Activities.
10. **Consumer:** An individual to whom an Offer is directed or who responds to an Offer and who effectuates an Action.
11. **Creative:** means graphic file(s), text, links, or other creative works made available to Publisher for use in conjunction with a specific Offer.
12. **Dashboard:** the panel through which Publishers can set up their apps and integrate ad sources as well as manage, optimize and analyze their Ad monetization strategy.
13. **PIA Advertising BER:** the company providing the Service(s) to the Publisher and counterparty to the Agreement with Publisher and user of these terms and conditions.
14. **Effective Date:** the date of signature of this Agreement.
15. **Insertion Order:** an order by Publisher to Advertiser sent to PIA Advertising BER in the form of an Insertion Order ("IO") or any other means of communication, collectively or separately named "Insertion Order" and which arranges the specification of the Services and is part of the terms and conditions agreement (Agreement).
16. **Invalid Action(s):** shall mean Actions that were generated in violation of the terms and conditions of this Agreement or applicable laws, Actions that do not meet all of the requirements of the Advertiser as set forth in the Offer terms or IO, Actions that contain false information (including, by way of example, "Daffy Duck" names, "1234 Main Street" addresses, or employ the use of a stolen or invalid credit or debit card), Actions generated through any misleading or fraudulent means, or Actions that are rejected by the Advertiser.
17. **Net Proceeds:** the total of the revenues generated as a result of User Activities for the applicable Ad less all applicable advertising agency commissions, discounts, fees, charge-backs, credit card processing fees, refunds and taxes, except for taxes on PIA Advertising BER 's net income.
18. **Party:** Publisher or PIA Advertising BER .
19. **Parties:** Publisher and PIA Advertising BER jointly.
20. **Personal Data:** personal data as defined in the Data Protection Act 1998 (based on and implements the EC Directive

(95/46/EC) on data protection), which may be accessed, processed or created as part of the Services.

21. **Platform:** the user interface of the web application developed, maintained and offered by PIA Advertising BER to Publisher in connection with providing the Services.
22. **Publisher:** the natural person or legal entity that has decided to enter into this Agreement and that has decided to assign PIA Advertising BER to provide the Services in accordance with the provisions of this Agreement.
23. **Publisher's Account:** the Publisher's online account at PIA Advertising BER for keeping track of revenue and statistics.
24. **Publisher Property(ies):** mobile applications and websites registered by Publisher over its Account over which Ads are served.
25. **Publisher Property Characteristics:** description and categorizing of Publisher Properties, including complete and accurate descriptions of the content, nature, and functionality of each Publisher Property.
26. **Publisher's Website(s):** websites that are owned by Publisher and are registered as such by PIA Advertising BER's .
27. **Revenue Share:** the compensation PIA Advertising BER pays to Publisher under the Insertion Order, consisting of the agreed-upon percentage of the Net Proceeds actually collected and received by PIA Advertising BER in connection with applicable User Activities.
28. **Service(s):** the services provided by PIA Advertising BER as listed under Article 3 of these general terms and conditions.
29. **Tracking Method:** the reporting and/or tracking procedures currently used by PIA Advertising BER to measure traffic, performance and related data.
30. **Traffic:** is the amount of data sent and received by visitors to a website and/or application and/or game, including mobile traffic and web traffic. This does not include the traffic generated by bots.

Article 2. General

1. The present terms and conditions are applicable to any and all Offers, Agreements and Services of PIA Advertising BER with a Publisher, of whatever nature, unless this applicability is fully or partly expressly excluded in writing and/or unless expressly stipulated otherwise.
2. This Agreement concerns the rights and obligations of each Party with respect to the Services agreed between the Parties via an Insertion Order agreed on by Publisher and PIA Advertising BER . Publisher understands that the sole obligation of PIA Advertising BER is to execute the Services. The Effective Date of these terms and conditions is the date set forth in the Agreement. These terms and conditions will remain effective until both Parties agree otherwise in writing.
3. Should one or more provisions of the present terms and conditions or of any other Agreement concluded with PIA Advertising BER be in breach of a mandatory statutory provision or any applicable legal provision then the relevant provision shall expire and shall be replaced by a new, legally permissible and comparable provision to be established by PIA Advertising BER .
4. Publisher with whom the present terms and conditions were contracted once is deemed to implicitly agree with the applicability of these terms and conditions to any Agreement concluded with PIA Advertising BER at a later date.
5. In case of a discrepancy between the content of any Agreement concluded by and between Publisher and PIA Advertising BER and the present terms and conditions the content of the Agreement shall prevail.

Article 3. Services

1. PIA Advertising BER shall carry out on behalf of Publisher the User Activities as defined in the Insertion Order.
2. PIA Advertising BER will use, subject to the Insertion Order, commercially reasonable efforts to provide: (i) host, maintain and make available the Publisher Account and an ad monetization dashboard; (ii) serve Offers provided by Advertisers for distribution over Publisher Properties registered in the Publisher Account; (iii) provide to the Publisher a Platform and make the PIA Advertising BER API available to deliver Offers to the Publisher Properties; and (iv) track Account Data and make it available to Publisher.

Article 4. Sign-up and approval process

1. Publisher must establish an Account by completing the registration process on the PIA Advertising BER website. Publisher must provide PIA Advertising BER with accurate and complete information, including contact and payment information, corporate documentation (Certificate of Incorporation, valid Proof of Address, company registration document), corporate legal address information and tax identification number, in the European Union a valid VAT number, as well as accurate Publisher Properties Characteristics.
-

2. Publisher is solely responsible for submitting to PIA Advertising BER its Publisher Properties Characteristics and for keeping such information up-to-date, including activating or deactivating filters available on the Dashboard and applying various blacklisting and tagging features to screen out certain categories of Ads from being served on its Publisher Property.
3. PIA Advertising BER may: (a) store and manage the inventory; (b) select the Ads to be delivered to the Publisher Properties; (c) identify, select and manage relationships with Advertisers; (d) determine the terms under which Ads are distributed and marketed; (e) establish price schedules and other terms and conditions applicable to the distribution of Ads by PIA Advertising BER ; and (f) take all actions relating to the foregoing.
4. Publisher will keep its Account information up-to-date by promptly notifying PIA Advertising BER of any changes in the Account information. Account access is provided on a password-protected basis. PIA Advertising BER specifically points out that for security reasons access data should be changed regularly.
5. Publisher agrees to keep access data (such as login data, passwords, and other data required in order to access the Services) strictly confidential and not to disclose such data to any third party without PIA Advertising BER 's written approval in advance.
6. Publisher agrees not to participate in any unauthorized use of the Account, the login name or password and any other access data. If a third party uses an Account after having gained possession of the access data due to insufficient security exercised by Publisher the use by that third party shall be deemed as being performed by Publisher.
7. The Publisher must inform PIA Advertising BER immediately upon becoming aware of the fact that an unauthorized third party has gained access data or that an unauthorized third party uses Publisher's equipment, property and/or system.
8. In case of a justifiable suspicion that access data are known to an unauthorized third party or that Publisher's equipment, property and/or systems are or were used by a third party, then, for security reasons, PIA Advertising BER reserves the right (but it is not obliged) either to change the access data at its own discretion without prior notification or to block the Account. In such cases, PIA Advertising BER will inform the Publisher immediately and provides the new access data upon request within a reasonable time. Publisher has no claim that the original access data must be restored.
9. PIA Advertising BER does not assume any obligation to routinely check Offers provided by Advertisers. In case PIA Advertising BER is notified that a specific Ad is not compliant with its policies, advertiser contracts, applicable laws or regulations, PIA Advertising BER will investigate and at PIA Advertising BER 's discretion remove that Offer, if necessary.
10. Upon violation of Publisher's obligations under this provision as a result of a willful act or negligence on the part of Publisher, PIA Advertising BER reserves the right to terminate the Account and/or to remove Publisher and/or any Publisher Properties from the Service at any time in PIA Advertising BER 's sole discretion and without being obliged to pay any compensation to the Publisher.
11. Publisher will comply at all times with all applicable policies of third party platforms that distribute its Publisher Property, including the policies, rules and standards of Apple, Android, Facebook, Microsoft and Google to mobile application developer policies, API terms and all other guidelines posted on their respective websites, whichever may apply to Publisher.
12. Publisher shall not (a) directly or indirectly generate events, conversions, impressions, clicks or sales on any Ads, through any automated, false, fraudulent or other invalid means; (b) edit or modify any information in an Ad or; (c) provide anything other than a direct link from an Ad to an Advertiser's page.

Article 5. License grant and proprietary rights

1. Subject to these terms and conditions and for the duration of the Agreement, PIA Advertising BER hereby grants Publisher a limited, non-exclusive, non-transferable, non-sub-licensable, revocable license to: (a) publish and display Ads provided by PIA Advertising BER within the Publisher Properties in an unmodified form; (b) incorporate the PIA Advertising BER API in the Publisher Properties and use the Ad Codes to enable PIA Advertising BER to deliver Ads to users of such Publisher Properties; (c) access and utilize the Ad Server, and (d) access and use the Account Data, in each case for purpose of Publisher's internal business operations only. Nothing contained in this Article 5 shall transfer any right, title or interest in or to Publisher's property. As between PIA Advertising BER and Publisher, PIA Advertising BER and its suppliers retain all right, title and interest in and to the PIA Advertising BER property.
 2. Subject to these terms and conditions and for the duration of the Agreement, Publisher grants to PIA Advertising BER the
-

right and license, in PIA Advertising BER 's sole discretion, to: (a) select and publish Ads within the Publisher Properties; (b) promote, market and sell to Advertisers and to their advertising agencies or affiliates the rights to place and publish Ads within the Publisher Properties; (c) measure Tracking Data and share such data with Advertisers, to the extent necessary to provide, maintain and improve the PIA Advertising BER Platform and the Service; and (d) to access the Publisher Properties, including any password protected area thereof, for the purpose of serving Ads and collecting Tracking Data. Subject to the rights granted herein, nothing contained in this Article 5 shall transfer any (intellectual) right, title, or interest in or to the Publisher Properties and, as between Publisher and PIA Advertising BER , Publisher and its suppliers retain all (intellectual) right, title and interest in and to the Publisher Properties.

3. Publisher shall not modify or alter any Offer or any Creative. Publisher will only run approved Creatives in its advertising of Offers and will not create its own Creative, unless expressly approved in writing from Advertiser. Any other use of Offers or Creative will result in immediate termination of this Agreement and the loss of payment for User Activities.

Article 6. Tracking and reporting

1. Reporting will be based on the numbers of User Activities as shown by PIA Advertising BER 's own tracking methods, including counting of the delivered events, conversions, impressions, clicks and/or sales . Publisher shall ensure that it does not collect personal information and that it shall not distribute or trigger any malicious software that may harm either PIA Advertising BER 's or its end-users' systems or equipment or slow down its end-users' websites or make those websites inaccessible.
2. The following information can be returned to the Publisher by PIA Advertising BER 's Actions: Transactional identification number, Publisher identification number (SubID), date/timestamp, incoming IP.
3. Publisher is advised to provide confirmation to PIA Advertising BER , either electronically or in writing, stating whether Traffic has been initiated and begun delivery.
4. Publisher agrees and acknowledges that all tracking of User Activities will be determined solely by the PIA Advertising BER Tracking Method. The total sum of events, impressions, clicks, leads, sales, installs, conversions and revenue count is to be based solely on PIA Advertising BER 's statistics. No other measurements or statistics of any kind shall be accepted by PIA Advertising BER or have any effect under the Agreement. Publisher further agrees and acknowledges that the determinations of PIA Advertising BER with respect to the Tracking Method and/or Revenue Share and other fees are final. PIA Advertising BER takes commercially reasonable measures to ensure that its Tracking Method at any point shall meet technical industry standards, but it cannot guarantee the absolute accuracy of the Tracking Method. If discrepancies occur, the parties will negotiate in good faith an amiable solution, otherwise PIA Advertising BER 's numbers will be decisive.

Article 7. Payment

1. PIA Advertising BER shall pay Publisher the agreed share of the Services according to the revenue share stipulated in the Insertion Order, or in an equivalent agreement between the Parties, or, in the absence of a specific agreement, the standard PIA Advertising BER revenue share as published on the PIA Advertising BER website. Publisher's sole compensation under this Agreement (defined as "Revenue Share") shall be derived from the Net Proceeds actually collected and received by PIA Advertising BER in connection with the required User Activities. The minimum outgoing payment threshold is 500 EUR/USD. Payments will be made once minimum threshold has been reached.
2. Publisher will issue invoices on a monthly basis, within 30 days of the last working day of the month following the traffic month. In the event that Publisher fails to invoice PIA Advertising BER within 30 day of the last working day of the month following the traffic month, Publisher shall waive its right to invoice and be compensated for the Revenue Share.
3. In consideration of the agreed Revenue Share, PIA Advertising BER generates credit notes for the approved amounts and shall pay these approved amounts to a bank account nominated in writing by the Publisher. Disputed amounts shall not be payable by PIA Advertising BER unless and until the dispute has been resolved.
4. Publisher is responsible for providing and maintaining accurate contact and payment information. Publishers assume complete and sole responsibility for any taxes, fees and other levies owed by them as a consequence of this Agreement.
5. Publisher is to note that when the campaign description does not include specific KPIs, Publisher has to consider 10% to 20% retention rate at the 7th day of the install as a usual and normal expectation from PIA Advertising BER 's advertisers. Not respecting this policy would automatically result in the cancellation of Publisher's payment.
6. Fraudulent activity ("Fraud") includes, among others and without limitations, (a) any action taken by Publisher, or anyone for whom in law Publisher is responsible, which is intended to inflate, either directly or indirectly, the Revenue Share

payable to Publisher; and/or (b) the generation of leads by a mechanism not approved or acceptable by PIA Advertising BER , including the use of unsolicited email (SPAM) to promote Publisher Properties, automatic redirecting of visitors, blind text or misleading links, forced clicks, bots or any other method or automatic process that may lead to an artificially high number of delivered clicks or other User Activities. PIA Advertising BER reserves the right, where it has a reason to believe in good faith that Fraud actually took place, to withhold or suspend payment of associated Revenue Share, unless and until Publisher provides evidence satisfactorily establishing the validity of such User Activities. The remedy set forth in this Section is cumulative and in no way limits or waives any other remedies available to PIA Advertising BER .

7. In the event any Publisher's Website is not available during more than two (2) hours or if Ads are not published as agreed between the Parties, PIA Advertising BER is not obliged to reimburse Publisher for such period and, in case of prepaid revenue, Publisher is obliged to refund any such prepaid revenue.
8. Notwithstanding anything to the contrary herein, PIA Advertising BER shall not be liable for any payment based on events described under Article 7.5 above. Thus, PIA Advertising BER may, in its sole discretion, refuse and/or reduce the payment of the agreed share due to Fraud.
9. Publisher shall not earn fees on Invalid Actions, as determined by PIA Advertising BER in its sole discretion. PIA Advertising BER may also withhold payment to Publisher, offset against other payments owed Publisher, or recover directly from Publisher in the event that PIA Advertising BER determines, in its sole discretion, that Publisher has engaged in unauthorized activity, including the generation of Invalid Actions, or breached its obligations under this Agreement. In addition, if an Advertiser withholds payment to PIA Advertising BER or charges back previous payments because of actions of Publisher, PIA Advertising BER may also withhold payment to Publisher or offset such charge backs against other payments due Publisher (or if no other payments are due Publisher, Publisher shall remit payment to PIA Advertising BER upon demand by PIA Advertising BER).
10. In case of termination of Services (by either Party) or liquidation of the Publisher or a relevant application or petition by the Publisher, the claims of Publisher and the obligations of PIA Advertising BER vis-à-vis the Publisher shall immediately fall due, and PIA Advertising BER will pay, after subtracting an amount of \$ 125 / € 100 for all administrative handling and GDPR compliances, the open, confirmed and accrued, amount within 10 working days after finalization of all administrative obligations.
11. If Publisher's account is inactive for a period of sixty (60) consecutive days (meaning Publisher has not generated any Actions during such period), Publisher shall lose its right to continue to receive fees from its referrals, if applicable, of other Publishers to PIA Advertising BER . If Publisher's account is inactive for a period of six consecutive months, Publisher's account shall be closed and Publisher shall forfeit any remaining balance in its account to compensate PIA Advertising BER for the administrative costs of maintaining and closing an inactive account.

Article 8. Publisher network

If PIA Advertising BER grants approval for Publisher to use sub-publishers in publishing and distributing Offers hereunder, Publisher agrees to comply with the following requirements:

1. If the Publisher operates a publisher network with its own (sub-) publishers, the Publisher shall make sure that the terms of the Agreement, including, but not limited to the Campaign Terms, are also effectively imposed on its sub-publishers and the Publisher shall bear full responsibility to comply with the terms of the Agreement, regardless of any fault of any sub-publisher.
2. Upon request by PIA Advertising BER , the Publisher shall give evidence, through verifiable means, that Publisher's sub-publishers have accepted effectively the Publisher Terms including the Campaign Terms prior to allowing to display the Advertiser Ads on the sub-publisher's Publisher Media. Publisher agrees to maintain at all times its publisher network according to the highest industry standards. All sub-publishers must be in good standing with the Publisher. In case of doubt, any reference in the Agreement to the Publisher shall refer to the Publisher as well as to a sub-publisher.
3. In case of an alleged or actual breach of the Agreement, including the Campaign Terms, to be determined upon PIA Advertising BER 's sole discretion, by a sub-publisher of the Publisher, the Publisher shall immediately:
 - a. Disclose the identity and contact details of the respective sub-publisher to PIA Advertising BER ;
 - b. Remove the sub-publisher from the partner program;
 - c. Upon explicit request by PIA Advertising BER : ban the sub-publisher from the participation in future partner programs with PIA Advertising BER and / or the Advertiser.

Article 9. Representation and warranties

1. Each Party represents and warrants that (a) it has the full corporate or organizational right, power, and authority to enter into the Agreement and to perform the acts required of it; (b) the execution of this Agreement and the performance of its obligations and duties, do not and will not violate any agreement to which it is a Party or is bound, or any applicable federal, state or municipal law or regulation to which it is subject; and (c) this Agreement constitutes a valid and binding agreement enforceable in accordance with its terms.
2. Publisher represents and warrants that it shall ensure that all Publisher Properties (i) comply with all applicable federal and state laws and regulations, such as the criminal code and youth protection provisions, and do not contain or promote any illegal content; (ii) do not offer any rebates, coupons or incentives, including cash, points, prizes, and contest entries with the sole purpose of attracting visitors to the Publisher Properties to generate Commission; (iii) do not violate any intellectual property rights or otherwise violate or breach any duty toward, or rights of, any person or entity, including without limitation rights of privacy and publicity; (iv) do not contain any spyware, pirated software, digital rights protection circumvention or hacking tools, spamming tools, or any materials endorsing or encouraging violence, war, hatred, revenge, racism, sexism, victimization, discrimination of any kind, insults, pornography, obscenity, criminal activity, or any materials suitable to cause serious moral harm to children and young people or which threaten their well-being, or which are otherwise prohibited by any applicable law; (v) do not result in any consumer fraud, product liability or breach of contract to which Publisher is a party, or cause injury to any third party; (vi) do not contain any content that reflects unfavorably on PIA Advertising BER and/or its Advertisers (each "Prohibited Content"); (vii) comply with all applicable terms, conditions and policies of application store vendors such as Google Play and Apple Store, including Apple's Developer Program License Agreement, the Android Market Developer Distribution Agreement, and any other terms required by third party distribution platform providers; and (viii) will only offer "virtual currency" as an incentive unless in compliance with the notification requirement set forth in these terms and conditions.
3. Publisher further represents and warrants that: (i) none of the Publisher Properties are installed on a user's device without the user's consent; (ii) each Publisher Property provides clear disclosure and removal policies; (iii) Publisher includes within each Publisher Property and on any site from which a Publisher Property is available for download, a privacy statement disclosing that Publisher permits third parties to serve Ads within the Publisher Property and collect and use information about how the user uses the Publisher Property, including Tracking Data; and (iv) Publisher obtains an affirmative opt-in from each user consenting the collection of Tracking Data and it maintains documentation establishing such opt-in consents.
4. With respect to Ads, Publisher represents and warrants that it shall not, and shall not permit, assist or encourage any third party to: (i) display the Ads other than via the Publisher Properties; (ii) modify, alter, translate, or create any derivative works of any Ad, in whole or in part, in any manner; (iii) alter, obscure or remove any notice, credits, attributions, or acknowledgements contained on or in the Ads; (d) use, copy, reproduce, retransmit, disseminate, re-purpose, broadcast or circulate any Ad other than as expressly permitted herein; (iv) use the Ad in any manner that may give any false or misleading impression or attribution; (v) develop any application or program having the same primary function as the Service; (vi) circumvent, disable or otherwise interfere with security related features of the Ad or the Service; (vii) reverse engineer, disassemble, decompile or otherwise attempt to derive any source material for the Service, in whole or in part; or (viii) contact, market to, communicate with, or solicit any Advertiser during the term of the Agreement and within twelve (12) months after its termination, either directly or indirectly in connection with Advertiser's participation, actual or potential, in any service, website, or network that is similar to or in competition with the Service.
5. Regarding influencer compliance, Publisher agrees to comply with the FTC's Endorsement Guides currently located at <https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking>, with respect to any endorsements made as part of its services hereunder, including, without limitation, properly disclosing that Publisher receives consideration for reviewing, promoting and/or recommending a product or service or engaging in any type of influence marketing.

Article 10. No exclusivity

This Agreement shall not prevent PIA Advertising BER GmbH from entering into similar agreements with third parties, including other Publishers within the same area of business as Publisher, or from independently developing, using, selling, brokering or licensing products and/or services which are similar to those provided under this Agreement.

Article 11. Indemnification

Each party (the “indemnitor”) agrees to indemnify, defend and hold harmless the other, its subsidiaries, advertisers, vendors and suppliers, and each of their respective agents, partners, officers, directors and employees (each, an “indemnitee”) from and against any third party loss, cost, claim, injury or damage (including reasonable attorneys' fees) arising out of or related to a breach of the indemnitor’s representations or warranties made in this Agreement or a breach of the terms and conditions of this Agreement. Publisher expressly agrees to indemnify PIA Advertising BER , Advertiser, and all other indemnitees for claims arising out of or related to the conduct of any sub-publisher.

Article 12. Limitation of liability

The PIA Advertising BER Services and the Offers are provided “As Is” and “As Available”. Except as expressly set forth in this Agreement, neither Party makes any warranties and expressly disclaims all warranties, express or implied, as to the subject matter of this Agreement, including implied warranties of merchantability and fitness for a particular purpose. In no event shall PIA Advertising BER be liable for any indirect, incidental, consequential, special or punitive damages of any kind or nature whatsoever (including lost profits or revenues, or harm to business) even if it has been notified of the possibility of such damages. In no event shall PIA Advertising BER ’s liability under this Agreement, whether in contract, tort or other legal theory, be greater than USD 25,000 or than the total amount paid within the prior six months by PIA Advertising BER to Publisher hereunder, whichever sum is smaller.

Article 13. Non-disclosure

1. The Publisher and PIA Advertising BER shall preserve as confidential all information related to the business activities of the other Party, its affiliates, clients, and entities with whom that Party does business, that may be obtained by either side from any source, whether that information is marked as confidential or is confidential by its nature, including the ad description and the pricing of the ad, set forth in the Insertion Order, all trade secrets, ideas, know-how, concepts, processes, techniques, research, data, plans, materials, product development and all other information of a confidential nature (in whatever form) constitute together the “Confidential Information”.
2. The Publisher and PIA Advertising BER shall hold all Confidential Information in trust and confidence and shall not disclose Confidential Information to any person, firm or enterprise, or use any Confidential Information for its own benefit or the benefit of any other person, unless specifically authorized in writing.
3. The Publisher and PIA Advertising BER shall limit access and disclosure of the Confidential Information to its personnel on a "need to know" basis only and where such personnel are aware and have agreed to comply with the confidentiality obligations set out in these terms and conditions.
4. Confidential Information does not include any particular information that the Publisher and/or PIA Advertising BER can demonstrate (i) is currently in the public domain, (ii) was previously known as to be free from any obligation (iii) was or is publicly disclosed by or on behalf of the Publisher and/or PIA Advertising BER .
5. At any time at the request and option of the Publisher and PIA Advertising BER , both Parties agree to promptly: (i) return the Confidential Information; or (ii) destroy or permanently erase the Confidential Information (in whatever form it is recorded).

Article 14. Data Protection, Data Collection, Processing and Transfer of Data

1. If the Services include any services in relation to the processing of Personal Data, PIA Advertising BER GmbH will comply with all relevant provisions of the General Data Protection Regulation (“GDPR”), as also stated in the PIA Advertising BER Privacy Policy (<https://publisher-ber.pia-advertising.com/privacy-policy.pdf>).
2. Within the scope of this Agreement, Publisher shall transfer inter alia the following data to PIA Advertising BER for the purpose of advertisement, billing and reporting: a. Device identifiers and data, b. Publisher ID, c. Ad campaign ID, d. Location data (if required and available), e. Demographic data (if required and available), and/or f. Event data. These data and other data, including additional tracking data and performance data required to optimize and further develop the services of PIA Advertising BER , may be transferred between the Parties as required for the execution of this Agreement, such as sending the Publisher e- mail notifications on e.g. traffic performances, campaign updates and (daily/total) cap reached, such required for PIA Advertising BER to inform Publisher timely, enabling Publisher to e.g. optimize traffic.
3. In the event that any transferred data under the present Article contains information concerning the personal or material

circumstances of an identified or identifiable individual (Personal Data), Publisher warrants that the collection, processing and transfer of Personal Data comply with the applicable data protection law. In particular, Publisher warrants that Publisher has:

- a. Published a conspicuous data protection and privacy policy that will be visible to the end user;
 - b. Obtained the end user's consent, approval, opt-in, waiver, authorization or clearance to collect, process or use the end user's data as may be required by applicable laws and industry practice and standards;
 - c. Notified the end user that the privacy and data protection laws in the countries in which the end user's data may be collected, processed or used may vary from the laws in the country in which such end users live;
 - d. Taken all adequate technical and organizational measures for the protection of the received Personal Data against accidental or illegal destruction, loss, and/or unauthorized alteration, amendment, disclosure or access, especially if the processing of such data implies transmission thereof within a network, as well as against any form of illegal processing;
 - e. Complied with the guidelines and terms of use of any promotional channels and app stores;
 - f. Complied with industry guidelines, local, national and European regulations on data protection and privacy laws; and
 - g. Contractually obligated any third party (including, but not limited to, any agent, employee etc.) who handles personal data on behalf of Publisher to comply with all of the above.
4. Publisher must, in particular:
- a. Keep a written record of all of Publisher's efforts to comply with this Article 14;
 - b. Provide PIA Advertising BER with proof of compliance under Article 14.3.b., should PIA Advertising BER request such proof.
5. PIA Advertising BER will:
- a. Process Personal Data received from the Publisher only in accordance with the instructions of the Publisher;
 - b. Take all adequate technical and organizational measures for the protection of the received Personal Data against accidental or illegal destruction, loss, and/or unauthorized alteration, amendment, disclosure or access, especially if the processing of such data implies transmission thereof within a network, as well as against any form of illegal processing;
 - c. Notify the Publisher of any unauthorized or unlawful disclosure or use of Personal Data of which PIA Advertising BER becomes aware; and
 - d. At the request and option of the Publisher, promptly return or safely destroy all Personal Data in PIA Advertising BER's possession or control.

Article 15. Term and termination

1. This Agreement shall commence on the Effective Date and will continue in force until terminated as set out below in this Article 15.
2. Parties may terminate this Agreement upon mutual agreement in writing at any time, providing all obligations, Services and due payments have been fulfilled.
3. Either Party may terminate this Agreement upon providing thirty (30) business days' notice in writing to the other Party, however, Parties remains liable for all their obligations under this Agreement.
4. PIA Advertising BER may suspend Publisher's access to all or any part of the Service immediately, with or without notice, if PIA Advertising BER believes in good faith that Publisher or any of Publisher Properties violates any provision, representation or condition of the Agreement. PIA Advertising BER may choose to terminate the Agreement if such violation is not cured within five (5) business days after notice to Publisher.
5. Upon termination of the Agreement under the abovementioned provisions, all rights and licenses granted to Publisher shall immediately terminate. Publisher shall discontinue all use of the PIA Advertising BER Platform and shall have no rights in or to any Account Data or Tracking Data, which shall, as between Publisher and PIA Advertising BER, be the exclusive property of PIA Advertising BER.
6. If either Party is in material breach of this Agreement and such breach is not cured within five (5) business days of being notified in writing of the breach, then the other Party may immediately terminate this Agreement and have no liability for any payment related to the Services after the breach notice has been provided to the other Party.

Article 16. Assignment

1. PIA Advertising BER shall be entitled, in whole or in part, to assign its rights and obligations under this Agreement to a company within the same de jure or de facto group or companies as PIA Advertising BER without Publisher's prior

consent.

2. Publisher shall not be entitled to assign its rights or obligations under this Agreement without PIA Advertising BER 's prior written consent.

Article 17. Force majeure

Neither Party shall be liable for service interruptions, delays, failure to perform, damages, losses or destruction, or malfunction of any consequence thereof caused or occasioned by circumstances outside their control ("Force Majeure Event"). A Force Majeure Event includes without limitation, fire, flood, water, the elements, acts of God, acts of war (declared or undeclared), explosions, civil disturbances, acts of terrorism, insurrection, riots, rebellion or sabotage, acts of federal, state, local or foreign governmental authorities or courts, shortages of equipment or supplies, unavailability of transportation, acts or omissions of third parties, failures or fluctuations in electrical power or telecommunications service or equipment, labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful. The Party so delayed or prevented from performing shall provide prompt notice of such event to the other Party and shall exercise good faith efforts to remedy any such cause of delay or cause preventing performance. To the extent that a Force Majeure Event has continued for five (5) business days, Publisher and Advertiser both have the right to cancel the remainder of the Insertion Order without penalty.

Article 18. Governing law and disputes

1. This Agreement and the ensuing relationship between the Parties shall be construed in accordance with and governed by German law.
2. Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination, or invalidity thereof, shall be finally settled by Courts of Germany, location Berlin.

Article 19. Entire agreement and variation

1. This Agreement sets forth the entire understanding and Agreement of the Parties and supersedes any and all prior oral or written agreements or understandings between the Parties as to the subject matter and may be changed only by a subsequent Agreement in writing signed by both Parties.
2. The Parties are independent contractors and expressly acknowledge that no agency, partnership, joint venture or employer-employee relationship is intended or created hereby.
3. This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective permitted transferees, successors and assigns. In the event of any inconsistency between the terms of an IO and this Agreement in respect of the Services, then the terms of the IO shall prevail to the extent of any inconsistency.
4. PIA Advertising BER reserves the right to amend these terms and conditions and Agreement. The Publisher shall be informed of such amendments by e-mail or through the information being made available on the PIA Advertising BER Platform. The Publisher shall be deemed to have received such notice within two (2) weeks of the notice being sent by e-mail or made available on the PIA Advertising BER Platform. Where the Publisher shall be entitled, within thirty (30) calendar days from the date of dispatch of the e-mail or, where appropriate, thirty (30) calendar days from the amendment being published on the PIA Advertising BER Platform, provided that the changes have an adverse effect, that could not be considered a minor, on the Publisher, to terminate the Agreement with immediate effect. Where the Agreement is not terminated by the Publisher within the aforementioned time, the Publisher shall be deemed to have accepted the new terms and conditions.