

Terms of Use for advertisers 2020 (May 22nd 2020)

The following terms and conditions apply to the use of Reachbird's platform by the Advertiser and legal transactions with Influencers conducted by the Advertiser via the platform or involving the platform.

§ 1 General terms and conditions

- (1) Reachbird AG, Industriering 3, 9491 Ruggell, Principality of Liechtenstein (in the following: "Reachbird"), represented by the Management Board, operates an online platform (in the following: "Platform") under the website <http://www.reachbird.io> (e-mail: support@reachbird.io), through which Clients of a product placement/advertising (in the following: "Advertiser" or "Client") can contact so-called influencers directly for advertising co-operations after their successful registration. Influencers are (natural) persons who report on brands or present products in - mostly their own - social (network) online channels (e.g. Instagram, YouTube etc.). Due to their high reputation, their position of trust and a strong presence in their social online channels, they usually have a great influence on those internet users (so-called followers) who are interested in the influencers and their opinions and for this reason are usually part of the influencer's community as so-called "followers". The influencers can be so-called consumers (§ 13 BGB) or entrepreneurs (§ 14 BGB).
- (2) With the following exception, these Terms of Use apply to the use of the platform and all legal transactions initiated or concluded via the platform. Deviating, conflicting or supplementary conditions shall only become part of the contract in relation to Reachbird if Reachbird has explicitly agreed to their validity. Excluded from this are those legal transactions, through which Reachbird concludes agreements with advertisers for the production or use of content (e.g. videos, photos, texts, postings etc.) explicitly separately under exclusion of these Terms of Use in its own name. These legal transactions are not subject to these Terms of Use.
- (3) Individual agreements made in individual cases between Reachbird and Advertisers take precedence over these Terms of Use. In this case a written contract or a written confirmation according to § 126 para. 1 BGB (German Civil Code) shall prevail.
- (4) Reachbird regularly communicates with its customers via e-mail, SMS, Whatsapp and other electronic communications services. By registering on the platform, the Advertiser agrees to the communication as described above. The Advertiser may, after registration, limit communication to individual means of electronic correspondence.
- (5) Cooperation between influencers and advertisers requires a professional and above all trustworthy cooperation between the two parties. Reachbird supports this cooperation with a technical platform and, if required and separately commissioned, with personnel expenditure.
- (6) All communication between Influencer and Advertiser shall take place via the platform.

§ 2 Registration and use of the platform

- (1) The advertiser can only use services of the platform after proper registration and the automatic creation of an account. The creation of several accounts is possible. For this purpose, the Advertiser must truthfully provide the required personal information on the Platform, such as name, full address, date of birth and e-mail address, and in particular not use a name for which he is not authorized or impersonate another person. The Advertiser agrees to keep the details of

his or her account(s) up to date at all times. For registration, the required data of the Advertiser must be entered correctly, and the validity of these Terms of Use must be confirmed by placing a check mark. Furthermore, the Advertiser must confirm the registration email from Reachbird in order for the account to be activated.

- (2) The advertiser is solely responsible for the security of his/her password. Only Advertisers and persons employed by the Advertiser may use the Advertiser's password and account. The disclosure of this password to unauthorized persons or the transfer of the account to third parties is not permitted. He/She must take the necessary measures to ensure that the password is not used by unauthorized persons. Should the Advertiser become or be able to become aware that unauthorized third parties are using the password and/or account without authorization, the Advertiser must inform Reachbird immediately.
- (3) The Advertiser agrees not to transmit any content with viruses, Trojans or other harmful programs or to place such content on the platform that could damage the Reachbird system. In case of violation the Advertiser agrees to compensate Reachbird for any damage.
- (4) The transfer of a Reachbird User Account to a third party is only possible with the prior written consent of Reachbird.
- (5) Reachbird reserves the right to review the Advertiser and allow him to use the Platform.

§ 3 Contractual Agreement and Services by Reachbird

- (1) Admission to use the Platform does not imply any legal claim of the Advertiser to a corresponding match-making activity by Reachbird according to § 3 of these Terms of Use. Reachbird does not owe a successful mediation of an agreement Influencers.
- (2) Reachbird enables duly registered Advertisers to enter into legal transactions via product placement or advertising (e.g. through so-called posts, videos, etc.) via the Platform by placing offers on the Platform. Any contractual agreement between Advertiser and Influencer shall always be in their own name and on their account. Reachbird will not become a contractual partner if the Influencer provides a corresponding service to the Advertiser.
- (3) The offers published via the platform in this respect represent non-binding and noncommittal offers of the advertisers for an assignment. Influencers can apply for the award of an assignment by uploading their own legally binding offers via the platform, stating their price expectations. If the offer is accepted by the Advertiser, Reachbird shall notify the Influencer by email and/or SMS and via the platform and the Advertiser accepts the offer bindingly with this notification forwarded by Reachbird. The Advertiser hereby authorizes Reachbird to forward the consent. The Influencer will also be informed of any possible rejection of the offer. The Advertiser may also make a counteroffer to the influencer via the platform. The Influencer then has a period of 72 hours to accept or reject the respective counteroffer or to submit his own counteroffer. If the influencer does not react within this period, the offer is automatically rejected.
- (4) With the acceptance of an offer by the advertiser or acceptance of a counteroffer by the influencer, the influencer is obliged to produce and publish the agreed advertising service (e.g. post) in accordance with the offer description or specifications of the offer. It is hereby clarified that Reachbird does not represent either the Advertiser or the Influencer unless Reachbird represents the Advertiser in the context of additionally agreed services. Reachbird only transmits the respective declaration of intent for the Advertiser or Influencer.
- (5) Reachbird will attempt to facilitate direct communication between the Advertiser and the Influencer to discuss any details once after procurements. There is no legal claim to this. The Advertiser and the Influencer are only allowed to discuss individual details or minor matters. Reachbird must be notified immediately of any changes to the contractual agreements. The

Advertiser agrees not to provide the Influencer with any services beyond his original offer by bypassing Reachbird.

- (6) In addition to the platform and the match-making services Reachbird offers separate services for the Advertiser, which will be agreed separately between Reachbird and the Advertiser. These are, for example, the commissioning of influencers and other advertising services in the name and on account of the Advertiser. Reachbird acts as a representative of the Advertiser in a different way than when mediating a cooperation with an Influencer as part of the services. The Advertiser grants Reachbird the necessary power of attorney for the provision of the Services and the conclusion of the relevant legal transactions with third parties (e.g. Influencers). The power of attorney ends upon complete provision of the Services. Reachbird will consult with the Advertiser before entering into a contract on behalf of the Advertiser.

§ 4 Obligations of the Advertiser

- (1) The possibilities for product placement/advertising should be formulated by the advertiser in sufficient detail to enable the influencer to recognize what performance is expected of him. The Advertiser may use the features provided on Reachbird for this purpose.
- (2) The Advertiser shall be responsible for content transmitted to Reachbird and for the agreed advertising service. The Advertiser shall comply with the applicable laws and third-party rights. The Advertiser agrees not to transmit any content that is contrary to morality or applicable law. This includes in particular possible infringements of industrial property rights such as trademark rights, copyright and competition law as well as criminal law regulations. Furthermore, the Advertiser agrees not to transmit such content or to call for the creation of corresponding content that is insulting, pornographic, racist or otherwise discriminatory. Only content in German and English may be posted, unless otherwise agreed with the advertiser. The advertiser must provide detailed information in advance about legal requirements in connection with the content and advertising services (e.g. under the German Drug Advertising Act, Tobacco Products Act, Interstate Treaty on the Protection of Minors in the Media, etc.). Should there be a breach of these obligations, Reachbird may block the Advertiser's access to the Platform with immediate effect. In the event that the Advertiser remedies the breaches and violations within a reasonable period of time, access may be re-enabled. If the Advertiser does not remedy the breaches and violations within a reasonable period of time, Reachbird may terminate the User Agreement on the Platform and delete the Account permanently.
- (3) The Advertiser grants Reachbird all rights to the material or information provided by the Advertiser (images, text, videos, trademarks, business names, etc. - hereinafter referred to as material and information as a whole), which are required for inclusion in the platform and for transfer to the respective influencer.
- (4) With the offer the influencer automatically receives the right to use and publish the material provided by the advertiser (especially trademarks) according to the order. The Influencer does not have to mention the names of the authors and performing artists in which rights to the material provided have arisen in the context of the use of the material. The Advertiser warrants that the authors and performers have effectively waived this.
- (5) The Advertiser confirms that he/she holds all rights to the material provided by him/her and that in particular his/her use does not infringe any copyrights, ancillary copyrights, trademark rights, rights to his/her own image or other industrial property rights. The Advertiser has duly obtained the authorizations required for the use of the material in accordance with data protection regulations (e.g. consents in accordance with the DSGVO) as well as the necessary rights of use and has paid any authors and performing artists appropriate remuneration. The Advertiser shall hold Reachbird harmless from justified claims of third parties.

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YOUR PARTNER IN INFLUENCER MARKETING

- (6) The advertiser is obliged to independently take care of and comply with tax regulations. Every advertiser is obliged to take care of the artists' social security contribution (KSK) himself and to pay and report it if necessary.
- (7) The advertiser is obliged to deliver the products and other items necessary for the execution of the respective order to the influencer in good time at his own expense.
- (8) The Advertiser must inform himself about the legal requirements of his advertising (especially in the context of so-called Influencer Marketing) and comply with them. The Advertiser shall indemnify Reachbird from legitimate claims of third parties arising from the violation of the legal requirements.

§ 5 Warranty

The legal regulations apply.

§ 6 Compensation for Reachbird

- (1) The fee of Reachbird agreed upon with the Advertiser is due upon invoicing. Invoicing shall take place regularly on a monthly basis. Reachbird is entitled to demand corresponding advances, especially in the case of longer-term campaigns. The remuneration consists of a monthly fee and a percentage surcharge on the booking volume of the Advertiser (transaction fee) as well as pre-defined services. The booking volume is based on the gross remuneration agreed with the influencers.
- (2) In the event that Advertiser and Influencer increase the originally agreed remuneration for an advertising service after conclusion of the contract, the transaction fee shall be calculated on the basis of the increased remuneration. This also applies if the scope of the advertising service is subsequently expanded and/or the agreement on the remuneration is adjusted outside the platform. Should the remuneration be reduced after conclusion of the contract, this shall have no effect on the transaction fee accrued up to that point.
- (3) The transaction fee is also payable without deduction if the agreement between the advertiser and Influencer is terminated before the advertising service has been fully provided, regardless of the legal grounds, or if the advertising service is not, poorly or only partially provided by Influencer in accordance with the contract. This will only not apply if Reachbird is responsible for these circumstances.
- (4) The remuneration is understood to be a net price plus any value added tax that may be applicable.
- (5) Reachbird may delegate invoicing/billing to a third-party company.
- (6) The Advertiser agrees to pay the monthly fee for using the platform. The amount of the monthly fee depends on the duration and individually negotiated offers. The usage fee is deemed to be accepted when the Advertiser confirms the Reachbird offer submitted to him by email or verbally.
The monthly fee is payable separately from the transaction fee and fees for other services.
- (7) The Advertiser shall also pay to Reachbird the fee due to the Influencer for the purpose of forwarding to the Influencer. Reachbird is entitled to collect the claim.

§ 7 Granting of rights

- (1) In addition, the influencer grants the advertiser an exclusive right, unlimited in time and place,

to use the materials (e.g. posts) provided by him for the respective advertising service, to use these materials on his social media channels (e.g. Facebook, YouTube, Instagram, Twitter, Tik Tok, Snapchat, WeChat etc.). Unless otherwise agreed, the Influencer must be named as the author of the content. For use outside of online media, a separate agreement between the advertiser and the influencer is required. The Influencer is clarifyingly permitted to use the materials for the fulfilment of the contract purposes via his online channels. In addition, Influencer agrees not to give the materials to third parties for media outside the internet for a period of 5 years.

§ 8 Campaign process and procedure

- (1) Reachbird provides the possibility to offer projects to influencers via the platform. It is necessary to create the given briefings and to follow the campaign process properly. As an integral part of the campaign, "dos and don'ts" between advertiser and influencer are communicated accordingly. Only the advertiser has the possibility to invite or write to influencers for a campaign/project via the platform.
- (2) A normal project process consists of:
 - a. Influencer selection (selection of the desired candidates by the advertiser);
 - b. Creation of a proper and clear campaign briefing including "dos and don'ts" by the advertiser. The contents should be accepted and read bindingly by the influencer;
 - c. Confirmation of the offer of the Influencer by the Advertiser;
 - d. The influencer must bindingly accept or accept a counteroffer according to § 3 within 72 hours. After expiration of this period the counteroffer is invalid. In addition, the influencer has the possibility in this step to make a counteroffer or to reject the request;
 - e. Start of communication via Reachbird and transmission of necessary personal data, such as the address;
 - f. In the next step the influencer creates the desired content for the advertiser. The influencer must adhere to the specified timing. If delays or changes occur, these must be communicated immediately and agreed with the advertiser. Failure to do so may result in project termination and/or claims for damages by Reachbird and/or the respective Advertiser.
 - g. Before content is published online, it must be approved by the advertiser via the platform. Only after release may content be shared on the social media platforms. In case of a complaint by the advertiser, the influencer is obliged to make the adjustments immediately. In addition, the influencer must upload the content to the platform so that a report can be created.
- (3) The Influencer will completely remove and delete already published actions at any time upon notification by the Advertiser.
- (4) Insofar as Influencer's obligations are contained in paragraphs (2) and (3), these shall only apply in the event of a separate agreement between Advertiser and Influencer.
- (5) Special wishes or agreements can be communicated at any time via the communication facility on the platform. The Advertiser agrees to communicate via the chat function on the platform.

§ 9 Liability

- (1) The Advertiser is not entitled to uninterrupted availability of the Reachbird Service. Reachbird

strives to provide the platform according to the state of the art, however, interruptions and/or limitations may occasionally occur, especially when maintenance or other service measures are carried out. In this respect the Advertiser shall not be entitled to any claim for failure. This also applies in case of force majeure.

- (2) Reachbird is liable for intent and gross negligence as well as in the event of personal injury. Liability for negligence is limited to liability for personal injury and in the event of breach of essential contractual obligations, so-called cardinal obligations (i.e. a contractual obligation, the breach of which would endanger the achievement of the purpose of the contract and on the fulfilment of which a contractual partner may regularly rely). In the case of slightly negligent breaches of duty, except for personal injury, liability shall be limited to typical damage that was foreseeable at the time the contract was concluded. Furthermore, Reachbird is liable for damages, which are provided for due to mandatory legal regulations (e.g. Product Liability Act). The limitations of liability shall also apply to the vicarious agents, organs and employees of Reachbird.
- (3) Reachbird is not liable for any further damages. Reachbird is in particular not liable for content created and distributed by Influencers and/or Advertisers.
- (4) The Advertiser shall hold Reachbird harmless from all claims of third parties that are asserted against Reachbird on the basis of the materials submitted by him.
- (5) Reachbird only provides the mediation of the order between the Influencer and the Advertiser. Reachbird is therefore not liable for the payment of remuneration from the Advertiser to the Influencer.
- (6) Reachbird does not review the image, voice, video, text and other content of the Influencers and Advertisers and therefore does not guarantee the accuracy of the project data, identities etc. provided by the Influencer or Advertiser. Neither does Reachbird check whether and to what extent the content created by the Influencer (video, image, voice, text content) meets the briefing requirements, unless the Advertiser gives Reachbird a separate order for this, which is deposited by an offer.

§ 10 Confidentiality

The Advertiser agrees to treat the information provided within the framework of the contractual relationship with the Influencer confidentially and to maintain silence about this even after the conclusion of the contract. This confidentiality agreement shall not apply if the information is obviously known in advance or has been made available to the other party by a third party without violation of this confidentiality obligation.

§ 11 Non-competition clause

The Advertiser agrees not to approach the Influencer directly to circumvent Reachbird even after the campaign has ended.

§ 12 Privacy policy

- (1) Reachbird collects data of the Advertiser within the scope of registration and processing of contracts. The personal data deposited by the Advertiser will be used within the scope of the data protection declaration issued by Reachbird as well as in accordance with the legal regulations of the data protection law, in particular those of the Federal Data Protection Act (BDSG), the Basic Data Protection Regulation (DSGVO) as well as the Telemedia Act (TMG).

- (2) Further information on data collection, processing and transfer can be found in our privacy policy.

§ 13 Final clauses

- (1) Place of performance, payment and fulfilment for the contractual relationship between Reachbird and Advertiser is the registered office of Reachbird.
- (2) Contracts between Reachbird and the Advertiser shall be governed by the laws of the Federal Republic of Germany excluding the UN Convention on Contracts for the International Sale of Goods. Contract language is German.
- (3) In the event of a breach of these Terms of Use, the Advertiser may be excluded with immediate effect from the use of the Platform by Reachbird.
- (4) If Reachbird intends to amend these Terms of Use, the proposed amendment will be notified to the Advertiser by email. The amendments shall be deemed to be approved if the Advertiser (or his legal representative) does not object to them in writing. Reachbird will make specific reference to this consequence in the notification email. The objection must be received within six weeks after receipt of the notification. If the Advertiser exercises his right of objection, Reachbird's change request is deemed to be rejected. The Agreement shall then be continued without the proposed changes. In this case Reachbird has the right to terminate the hereby concluded agreement with the Advertiser without notice.
- (5) The place of jurisdiction for all disputes arising from the contractual relationships between Reachbird and the Advertiser is Munich, provided the Advertiser is an entrepreneur.
- (6) Should individual provisions of this agreement be invalid in whole or in part, the validity of the remaining provisions shall not be affected. In place of the invalid points, the corresponding legal regulations, if any, shall apply.