

**§ 1 General provisions**

- (1) Reachbird AG, Industriering 3, 9491 Ruggell, Principality of Liechtenstein (hereinafter "Reachbird"), represented by its Management Board, operates an online platform (hereinafter "Platform") at the website <http://www.reachbird.io> (email: [social@reachbird.io](mailto:social@reachbird.io)) by means of which clients (called "Advertisers") can insert opportunities for product placement/promotion, and for the execution of which platform users can bid as what are called "Influencers" after proper registration. In addition there is the facility, via the platform, for Influencers to be contacted directly by the Advertisers for cooperative promotional activities. Influencers can be what are called consumers (§ 13 of the German Civil Code (*Bürgerliches Gesetzbuch*) and also entrepreneurs (§ 14 of the German Civil Code).
- (2) These Terms and Conditions of Use apply for all acts of legal significance concluded by clients of a product placement/promotion and Influencers with Reachbird. Divergent, conflicting or supplementary conditions only become part of the contract if Reachbird has expressly agreed to their application.
- (3) Specific agreements concluded on a case by case basis with Advertisers and Influencers take precedence over these Terms and Conditions of Use. In this case a written contract or a written confirmation is authoritative.
- (4) Reachbird normally communicates with its clients by email, SMS (texts), Whatsapp and other electronic communication services. By registering with the platform the Influencer agrees to communication as described above. After registration, the Influencer can restrict the communication to specific channels. This must take written form.
- (5) Influencers who extend their range by illegal methods, such as increasing or subsequently increasing the number of their social media followers by purchase or by other improper methods are excluded from the platform. The same applies to the increase of "like" figures. In the event of a breach of this nature the Influencer can be barred from using the platform with immediate effect.

**§ 2 Registration and use of the website**

- (1) When registering on the website the Influencer undertakes to provide the information which is requested about his/her person e.g. name, complete address, date of birth and email address, truthfully and particularly not to use a name he/she is not entitled to use or, for example, to purport to be a different person. The responsibility for checking this information for truthfulness rests with Reachbird. The Influencer undertakes to create only one account and always to maintain the information in an updated condition. To do so, the information relating to the user's data, the Terms and Conditions of Use and the Data Protection Agreement must be confirmed by a tick. The Influencer must also acknowledge the confirming email from Reachbird so that the account is activated. By acknowledging the email the Influencer accepts the application of these Terms and Conditions of Use during the registration process as binding.
- (2) The Influencer may arrange to be represented by appropriate agents for registering with/using the platform. Influencers' agents are obliged to truthfully indicate and use the information requested about the Influencer, for example name, complete address, date of birth and email address. Influencers' agents also have the right to react in the influencer's name for instance to promotion invitations, and to accept or decline such invitations, and to upload content in the name of the Influencers on the platform.
- (3) No entitlement to participation or registration or activation for the website exists.

- (4) Every Influencer (m/f.) must be 18 years of age or more. If the Influencer is less than 18 years of age, he/she warrants that he/she has his/her parent's or guardian's agreement when registering.
- (5) The Influencer has sole responsibility for the security of his/her password. Disclosing the password to another person or transferring the account to a third party is prohibited.
- (6) The Influencer undertakes not to transmit content containing viruses, Trojans or other malware which could damage Reachbird's system. In the event of an infringement of this provision the Influencer undertakes to compensate Reachbird for any loss or damage.
- (7) The transfer of a Reachbird account is only possible after prior written agreement by the Reachbird team.
- (8) If the Terms and Conditions of Use change, Influencers will be informed in writing, that is to say by email, where this is reasonable. If the Influencer fails to object to the amendments within six weeks, the amendments are deemed to be accepted.
- (9) The Influencer undertakes to link at least one social media account with the Reachbird platform so that Reachbird and the Advertisers can review and / or see the suitability of the Influencer by means of the social media data or the equivalent statistical data of the account in question.
- (10) The provisions of the relevant social media platform apply for the publication of the Influencer's content; the Influencer must comply with these provisions.

### **§ 3 Contract conclusion and services of Reachbird**

- (1) Reachbird reserves the right to check the Influencer and to approve his/her use of the platform. Approval does not create any entitlement in law to the corresponding activity by Reachbird as an intermediary.
- (2) Reachbird will provide the registered users with offers from brand owners, corporate groups and entrepreneurs for product placement and promotion by means of what are called posts. In this process the offers are written in such a manner that the client expresses his ideas so precisely that the Influencer can identify what type of post is expected. If the Influencer should have disclosed his/her private phone number via his/her personal data, he/she will be regularly informed by a text/SMS and Whatsapp about a corresponding offer as well as by email.
- (3) The offers announced by Reachbird represent non-binding offers. Influencers may bid for the order to be placed with them by uploading their own legally binding offers by creating the post and indicating their price idea via the platform. Reachbird will check these offers and forward them to the Advertiser in so far as there is nothing objectionable in the offers. If the offer should include objectionable content, the Influencer will receive notification of the rejection of the offer. If the Advertiser should agree to the offer, Reachbird will inform the Influencer of this by email as well as via the platform and this notification constitutes a legally binding acceptance of the offer. The Influencer will also be informed of any rejection of the offer. He/she then has the option of submitting a revised improved offer in so far as the Advertiser has not already decided in favour of a different Influencer. In so far as Reachbird is aware of this, Reachbird will also pass this information to the Influencer without delay.
- (4) By accepting an offer the Influencer is obliged to produce and publish the post in accordance with the description in the offer or the requirements.
- (5) After the order has been placed Reachbird will endeavour to make direct communication between the Advertiser and the Influencer possible in order to create a direct line of communication on possible details between the parties. There is no legal entitlement to this. The parties are only permitted to use this direct communication for the discussion of specific details or trivial matters. An amendment of the contractual agreements or similar is, however, not permitted. The Influencer undertakes not to submit any request for

additional services to the Advertiser over and above his/her original offer by a route which does not involve Reachbird.

#### **§ 4 The Influencer's services**

- (1) The Influencer undertakes to execute the relevant order properly and to publish it in the agreed medium. The post must remain on the agreed social medium channel for 180 days and may not be deleted.
- (2) The Influencer undertakes to identify the promotional activities which are to be undertaken under this Agreement in accordance with the provisions of law and advertising guidelines to the extent permitted. This includes identifying the promotional activities created under this Agreement – in so far as necessary – clearly as promotion, and to permanently maintain the principle of the separation of editorial content and promotion. The Influencer's attention is drawn to the fact that the relevant marking must be in the language of the relevant country and highlighted, and that an "#ad" or a "#sponsored by" is not considered to be adequate according to the latest court judgements. The obligation to identify promotion also applies to all brand and product mentions by the Influencer.
- (3) The Influencer confirms that he/she is in possession of all the rights to the material he/she uses and particularly that in using and presenting them, neither copyrights, nor other performing rights, trade mark rights or other rights such as the right to a person's own image, or competition law are infringed. On making an offer the Influencer receives in return the right to use and disseminate the product and any labelling rights accordingly in the context of the order.
- (4) The Influencer undertakes not to use any photos, charts or other materials in the production of the order, the content or use of which is a criminal offence or which infringes criminal law in any other way.
- (5) The Influencer also undertakes not to disseminate any content which represents, relates to or contains
  - a. companies in an adverse context
  - b. racism
  - c. glorification of violence and extremism of any kind whatsoever
  - d. proclamation of and incitement to criminal acts and infringements of the law, threats to life, limb or property
  - e. harassment of persons or companies
  - f. defamatory, slanderous or libellous statements and malicious gossip about users and third parties as well as breaches of the law on fair trading
  - g. content which breaches copyright law or other breaches of the law on intellectual property
  - h. sexual harassment of other persons, and pornography
  - i. objectionable, sexist, obscene, vulgar, abhorrent and disgusting materials and terminology
  - j. drunk driving
  - k. products of competing companies
- (6) The Influencer also undertakes not to subsequently use content which has been posted for different private or business purposes.
- (7) The Influencer further undertakes not to market any products during the promotion which compete with the Advertiser's products.

#### **§ 5 Remuneration**

- (1) The process for registration with the platform is free of charge for the Influencer - until further notice. Reachbird will receive remuneration for the use and successful facilitation of an order placed via the Reachbird portal; this remuneration is dependent on the project and is called a "service charge". The Influencer will receive his/her remuneration not later than 60 days after receipt of the money from the Advertiser. A service charge of 15% of

the agreed price is due for the successful facilitation of a project between the Influencer and the Advertiser. The Influencer authorises Reachbird to collect the price from the Advertiser and assigns the relevant proportion in the amount of the service charge to Reachbird. Reachbird accepts the assignment.

- (2) The Influencer's remuneration falls due for payment on presentation of the Influencer's invoice after approval by Reachbird or through a credit note issued by Reachbird. In this way no further invoicing is needed by the Influencer. Approval will normally be given after the end of the promotion. The Influencer has 14 days to check the statement in his/her user account and to raise objections if applicable. At the end of this period the credit note is deemed to be conclusively accepted by the user.
- (3) The remuneration is the net price plus any applicable Value Added Tax. All taxes and fees are included in the remuneration.
- (4) All remuneration negotiated on Reachbird includes contributions due to artists' social insurance (*Künstlersozialversicherung*) if appropriate and other taxes on the Influencer. The Influencer is independently responsible for declaring and paying any obligation and contribution to artists' social insurance and other obligatory tax authorities.
- (5) In the event of inadequate performance, Reachbird reserves the right to withhold the Influencer's payment and not to pay any remuneration. The cases will be examined on a case by case basis and in extreme cases a financial penalty may even be imposed on the Influencer. Reachbird too will receive no remuneration in the event of non-performance by the Influencer.

## **§ 6 Undertaking and the grant of rights**

- (1) The Influencer grants Reachbird an exclusive right, unrestricted in time, for the on-line use of the materials created by the Influencer. Reachbird is permitted to grant sub-licences, for example to the Advertiser. In this respect the Influencer undertakes not to initiate proceedings against the Advertiser, for example for the infringement of copyright.
- (2) A separate agreement between the parties is required if the Advertiser wishes to use the posts/promotion other than in on-line media.

## **§ 7 Warranty**

- (1) The provisions of law apply in respect of liability for defects as to quality or defects of title unless provided otherwise in these Terms and Conditions of Use or the individual agreements.
- (2) The Influencer warrants the agreed properties of the material produced and also warrants that Reachbird may use the materials without infringing any third party rights.

## **§ 8 Promotion procedure and sequence**

- (1) Reachbird offers the facility of placing projects with Influencers via the platform. In this process it is necessary to structure the required briefings and to duly comply with the promotion procedure. "Dos and don'ts" are therefore communicated as a fixed component. Only the Advertiser is able to invite Influencers to participate in and write for a promotion.
- (2) A normal project procedure is as follows:
  1. Influencer selection (selection of preferred candidates by the Advertiser);
  2. Creation of a systematic and clear promotion brief including "dos and don'ts" by the Advertiser. The Influencer must read and accept the content as binding;
  3. The Advertiser issues a confirmation including a price idea to the Influencer;
  4. The Influencer must accept the promotion enquiry as binding within 48 hours. At this stage the Influencer has the opportunity to make a counter-offer.

5. The communication starts via Reachbird and disclosure of necessary personal information such as the address;
  6. As a further step the Influencer creates the required content for the Advertiser. The Influencer is obliged to comply with the schedule which is specified. If delays or changes should occur, these must be communicated immediately and agreed with the Advertiser. Exclusion from the project and / or the assertions of demands for compensation by Reachbird and / or the relevant Advertiser must be expected in the event of failure to comply with the requirements.
  7. Before a post can be placed on-line, the promotion must be approved by the Advertiser via the Reachbird platform. A promotion may only be shared on the social media platforms after approval. In the event of a complaint by the Advertiser, the Influencer is obliged to make the changes immediately. The Influencer must also upload the promotion to Reachbird so that a report can be prepared.
- (3) The Advertiser can require the Influencer to delete promotions already published.
  - (4) Particular requirements or agreements may be communicated at any time using the platform's communication facility. The Influencer and the Advertiser are instructed to use the chat window on the platform for this purpose.

## **§9 Liability**

- (1) The Influencer has no entitlement to the uninterrupted availability of the Reachbird services. Reachbird endeavours to make the pages available by means of the latest technology but interruptions and restrictions may occur from time to time, particularly when maintenance or other service measures are being undertaken. In this respect the Influencer has no entitlement to compensation for drop-outs. This also applies in the event of force majeure.
- (2) Reachbird is liable for intent and gross negligence including injury to persons. Liability for negligence is restricted to the infringement of material contractual obligations, what are called "cardinal obligations". Liability is restricted to loss or damage typical under the contract, and the occurrence of which Reachbird must anticipate on the conclusion of the contract because of the circumstances which are foreseeable at this point in time. Reachbird is also liable for loss or damage which can be anticipated by reason of mandatory provisions of law. The liability restrictions also apply to vicarious agents.
- (3) Reachbird has no further liability. In particular, Reachbird is not liable for content created and disseminated by the contractual parties.
- (4) The Influencer will indemnify Reachbird against all third party claims which are asserted against Reachbird by reason of the content communicated by the Influencer.
- (5) The Influencer is also responsible in law for the promotional content he/she creates and disseminates, and will indemnify the Advertisers against all and any third party claims and in this connection will bear all costs incurred by the Advertiser. This does not apply in so far as the client has controlled and approved the promotional activity. In this case liability is limited to gross negligence.
- (6) During the production of the content, offers and briefings the Influencer is obliged not to use any content and measures which are criminal or breach legal requirements in any other way
- (7) Reachbird and the relevant Advertiser are not liable for any back taxes resulting from a breach of the obligation to identify Value Added Tax separately, or any breach of the obligation to pay potential social insurance contributions including artists' social insurance contributions, any interest or other losses in so far as these are due to incomplete or false information from the Influencer. The Influencer is liable for erroneous information or incomplete notification. The Influencer will indemnify both Reachbird and the Advertisers against all third party claims.

- (8) Reachbird only acts as an intermediary for the order between the Influencer and the Advertiser. Reachbird is therefore not liable for the payment of the remuneration by the Advertiser to the Influencer.
- (9) Reachbird does not check the Influencer's image, voice, video and text content in full and therefore accepts no warranty of any nature whatsoever for the accuracy of the project data, identities etc. furnished by the Influencer or the Advertiser. Reachbird also does not check in full whether and to what extent the content (video, image, voice and text content) created by the Influencer corresponds to the briefing unless the client places a separate order for this with Reachbird; this order must be preceded by an offer.

## **§ 10 Confidentiality**

The Influencer undertakes to treat the information communicated in the context of the contractual relationship as confidential even after the end of the contract, and to maintain confidentiality in respect of such information. This confidentiality agreement does not apply in so far as the information was already in the public domain or if it can subsequently be proven that it was made accessible to the other party by a third party without this obligation of confidentiality being breached. The Influencer is particularly prohibited from disseminating the corresponding information via the Internet or social media. In the event of an infringement, the Influencer undertakes to pay to Reachbird a contractual penalty in the amount of 30% of the agreed fee of the relevant order.

## **§ 11 Prohibition of competition**

- (1) The Influencer undertakes that even after the end of the promotion he/she will not approach the Advertiser directly in order to circumvent Reachbird. This does not apply in so far as the contractual relationship between Reachbird and the Advertiser is at an end.
- (2) The Influencer undertakes to select further cooperative promotional activities in such a manner that the promotional and marketing strategies planned by the Advertiser and known to the Influencer are not impeded or reduced in their promotional impact by his/her obligations to other parties. The Influencer will confer with the Advertiser on this point prior to the conclusion of cooperative activities between the Influencer and the Advertisers and any third parties in such a relationship with existing promotional cooperative promotional activities.

## **§ 12 Data protection**

- (1) As part of the registration and processing of contracts Reachbird collects the Influencer's data. The personal data provided by the Influencer will be used within the framework of the data protection statement given by Reachbird and in accordance with the statutory requirements of data protection law, particularly those of the German Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*), the General Data Protection Regulation (GDPR) and the German Telemedia Act (*Telemediengesetz – TMG*).
- (2) You will find further information on the collection, processing and transmission of data in our Data protection Guidelines.

## **§ 13 Final provisions**

- (1) The place of performance, payment and execution is the registered office of Reachbird.
- (2) The law of the Federal Republic of Germany with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods applies to contracts between Reachbird and the Influencer. The language is German.
- (3) In the event of an infringement of the provisions of Reachbird's General Terms and Conditions of Business and/or the relevant conditions of the platform, the Influencer may

be excluded from using Reachbird with immediate effect.

- (4) The place of jurisdiction for all disputes arising from contractual relationships between Reachbird and the Influencer is Munich in so far as the Influencer is an entrepreneur (*Unternehmer*).
- (5) If individual provisions of this Agreement should be invalid in whole or in part, the validity of the remaining Terms and Conditions of Use in all other respects is not affected. To the extent that they exist, the corresponding provisions of law take the place of the invalid points.