



TRIVAGO DISPLAY & AFFILIATE TERMS AND CONDITIONS



Trivago Display & Affiliate Terms and Conditions

In connection with the Affiliate Partner Programme Agreement (hereinafter referred to as AGREEMENT) executed on 29.05.2019 between TradeTracker International BV. (the "AFFILIATE NETWORK"), with registered address at De Strubbenweg 7, 1327GA Almere, The Netherlands; and trivago N.V. ("TRIVAGO") with registered address Kesselstraße 5-7, 40221 Düsseldorf, Germany, these Terms and Conditions ("TERMS") shall apply to the business relationship between {AffiliateName} (hereinafter referred to as "PARTNER") and TRIVAGO, hereinafter collectively referred to as PARTIES.

1. Rights of use

- 1.1. TRIVAGO reserves the right to any content which it provides to the PARTNER. TRIVAGO grants a non-exclusive, non-sublicensable, non-transferable, royalty-free license to the PARTNER to use such content solely for the purposes agreed upon in the AGREEMENT. This license applies only to the PARTNER and the affiliates the PARTNER includes in its "Publisher's account information" as described in section 7 of the AGREEMENT. In this context "content" includes particularly but without limitation logos, pictures and creatives.

2. Prohibited Activities

- 2.1. The PARTNER must not
 - a. acquire any search engine traffic in the name of TRIVAGO. This includes all traffic related to search engine traffic, paid or organic, with TRIVAGO direct landing page or another interstitial page, as well as all engines, including but not limited to, Google, Yahoo, Bing, Yandex and their partner networks. TRIVAGO has the right to request a refund for any traffic obtained using search engines that was billed to TRIVAGO by PARTNER;
 - b. acquire any Google Display Network ("GDN") traffic by advertising in this network on behalf of TRIVAGO. TRIVAGO has the right to request a refund for any traffic obtained using GDN that was billed to TRIVAGO by PARTNER;
 - c. acquire any Google Mail Special Promotions (GSP) traffic by advertising in this network on behalf of TRIVAGO. TRIVAGO has the right to request a refund for any traffic obtained using GSP that was billed to TRIVAGO by PARTNER;
 - d. acquire any incentivized traffic under the AGREEMENT. PARTNER must not advertise a cashback deal for performing an action on any TRIVAGO Website or incentivize traffic by promising rewards, including but not limited to points, cash, or other rewards from an activity such as a game, for performing an action on any TRIVAGO Website. Furthermore, PARTNER must not advertise a TRIVAGO Website on any Website offering a voucher in exchange for clicking on the TRIVAGO Website advertisement;
 - e. acquire any traffic through a cashback and coupon site under the AGREEMENT. TRIVAGO has the right to request a refund for any traffic obtained in this way where such traffic was billed to TRIVAGO by PARTNER;
 - f. acquire any AdWare traffic under the AGREEMENT. This means, including but not limited to, overriding links or integrating a Trivago Search Bar into an adbar;
 - g. publish or promote prohibited content consisting of sexually explicit materials, violent materials, libelous or defamatory materials, illegal materials and activities.

2.2. For each event of an infringement of the obligations listed above committed by the PARTNER, TRIVAGO is entitled to claim liquidated damages in the amount appropriate for the damages. Each singular act shall be deemed an individual breach. Payment of liquidated damages shall not exclude the assertion of claims to compel the PARTNER to refrain from infringing these TERMS or claims for further damages if sufficient proof is provided. The liquidated damages will be set off against any potential compensation for damages.

3. Fraudulent and Corrupt Activities

- 3.1. PARTNER represents and warrants that it has complied and will continue to comply with the United States Foreign Corrupt Practices Act ("FCPA"), the anti-corruption laws of Germany, and any other applicable anti-corruption law ("Anti-Corruption Laws"), and that it will comply with applicable trade and economic sanctions administered or enforced by the United Nations, the United States, the European Union, any EU member state, or Her Majesty's Treasury of the United Kingdom (collectively, "Sanctions"). In accordance with this understanding, PARTNER represents and warrants that no payments of money or anything of value have been or will be offered, promised or paid, directly or indirectly, by any of its directors, officers, employees, or agents, to any person, including any Public Official: (a) to improperly influence any official act or decision of that person; (b) to induce that person to do or omit to do any act in violation of a lawful duty; or (c) to secure any improper benefit or favor for a PARTY. PARTNER further represents and warrants that is not identified on, or otherwise owned or controlled by any person identified on, any list of prohibited parties under sanctions. For purposes of these TERMS, a "Public Official" means: (i) any elected or appointed government official, officer, employee or person acting in an official or public capacity on behalf of a government; (ii) any official or employee of a quasi-public or non-governmental international organization; (iii) any employee or other person acting for or on behalf of any entity that is wholly or partially government owned or controlled by a government; (iv) any person exercising legislative, administrative, judicial, executive, or regulatory functions for or pertaining to government (including any independent regulator); (v) any political party official, officer, employee, or other person acting for or on behalf of a political party; and (vi) any candidate for public office
- 3.2. Accuracy of Books and Records / Cooperation with Audit Activities. PARTNER agrees that it will maintain accurate and complete records of its receipts and expenses having to do with these TERMS, including records of payments to any other third parties or Public Officials, in accordance with generally accepted accounting principles. PARTNER further agrees that it will make such books and accounting records available for review by TRIVAGO, or by an independent party nominated by TRIVAGO, at TRIVAGO's reasonable request.
- 3.3. Each PARTY shall comply with all legislation, court orders, rules of court, codes of practice, and guidance or orders of any regulator, in any relevant jurisdiction in any way relevant to that PARTY'S compliance with its obligations under these TERMS.
- 3.4. TRIVAGO and the PARTNER shall perform their obligations with skill, care and diligence.
- 3.5. PARTNER assures to have all necessary insurances which PARTNER is legally obliged to have according to the laws of the Federal Republic of Germany.
- 3.6. The PARTIES shall comply with equivalent industry standards and practices to ensure that neither the PARTIES' Websites/Network, nor any instructions, advice, and information contained therein, nor any electronic mail message through which information is transmitted from one PARTY to the other will contain any materials which may have a deleterious effect on the other PARTY, or a consumer's experience of the PARTNER'S Websites, including "worms", "viruses", "Trojan horses",

corrupted files, cracks, unauthorized, hidden programs, or other materials that are intended to or may damage or render inoperable software, hardware or security measures of the PARTNER Websites, consumers, or any third party.

- 3.7. The PARTNER must not engage in any fraudulent activities in order to fulfill its obligations under these TERMS. Fraudulent activities include in particular but without limitation bots, automated lead generation, wrong linking, direct linking to lead page and multiple leads.
- 3.8. If during a campaign TRIVAGO discovers such fraudulent activities committed by the PARTNER, TRIVAGO is entitled to stop the campaign immediately without complying with any notice period and is not obliged to pay and cannot be held liable for any performance that was obtained under the influence of such fraudulent activities.

4. To-be-approved Activities

- 4.1. Any advertising for TRIVAGO on Real Time Bidding is strictly prohibited for the PARTNER in relation to the AGREEMENT unless TRIVAGO has approved of it in writing (e-mail shall suffice). In case of an approval the PARTNER has to name the supply-side platform (SSP) which is to be used to TRIVAGO prior to the start of a Real Time Bidding campaign.
- 4.2. Any remarketing traffic under the name of TRIVAGO is prohibited for the PARTNER, unless TRIVAGO has explicitly stated otherwise in writing (e-mail shall suffice).
- 4.3. Any e-mail traffic under TRIVAGO's name is strictly prohibited, unless TRIVAGO has explicitly stated otherwise in writing. The PARTNER may only receive the permission to engage in e-mail traffic if it has provided TRIVAGO with the Opt-In Rights for the database from which the PARTNER wants to send the e-mails out in advance and informed TRIVAGO about the source of the database that is to be used.
- 4.4. Any Facebook or other social media networks campaigns handled on behalf of TRIVAGO, which drive direct traffic to a TRIVAGO Website without an interstitial page is strictly prohibited, unless TRIVAGO has explicitly states otherwise in writing (e-mail shall suffice). TRIVAGO has the right to request a refund for any traffic obtained using non-approved direct TRIVAGO campaigns in social media networks that were billed to TRIVAGO by PARTNER.

5. Special Provisions for Sub-Affiliate Networks

- 5.1. Upon starting a cooperation with TRIVAGO, the sub-affiliate network as a PARTNER has to provide TRIVAGO with a list of publishers the PARTNER works with for trivago campaigns.
- 5.2. The PARTNER is not allowed to use creatives (IAB Standard and customized Image Creatives, Image/Text Combinations/Text Ads) which are not provided by TRIVAGO itself. Any creatives which have been built by the PARTNER or an advertiser themselves have to be approved by TRIVAGO via email before made use of.
- 5.3. The budget for a campaign/publisher/vendor can only be changed by a prior approval from TRIVAGO, an e-mail is considered as fulfilling the requirement of form.

As a tracking solution for sub-affiliate networks TRIVAGO accepts conversion and retargeting tags (preferably image pixels but can also be JavaScripts). Multiple redirect tags are not accepted by TRIVAGO.

- 5.4. The PARTNER is obliged to make sure that TRIVAGO's tracking is properly included in all advertising directing traffic to trivago. If the tracking is not included or properly implemented, TRIVAGO is not able to attribute the traffic and therefore cannot be held liable to pay for any services the PARTNER rendered.
- 5.5. If the PARTNER is not able to meet the contractual obligations agreed upon in the AGREEMENT and cannot convert the traffic, TRIVAGO is allowed to stop the campaign within 24 hours by giving notice via e-mail, telephone or fax to the PARTNER. The same applies vice versa.
- 5.6. Under special circumstances, like a server downtime or similar events and situations, TRIVAGO is entitled to stop running campaigns immediately by giving notice via e-mail, telephone or fax to the PARTNER.

6. Liability for Damages

- 6.1. Irrespective of the legal grounds of any claims, the liability of TRIVAGO shall be limited within the framework of applicable statutory law as set out below. Neither Party shall have any liability to the other for loss of profits, revenue, data or any consequential, special, indirect, or incidental damages, based upon a claim of any type or nature, even if advised of the possibility of such damages.
- 6.2. TRIVAGO makes no express or implied warranties of merchantability or fitness for a particular purpose, whether arising by law, custom or conduct, or as to the accuracy or completeness of the information provided by such Party or on such Party's site. Neither Party makes any representation that the operation of such Party's website will be uninterrupted or error-free, and neither Party shall be liable to the other, or to any third party, for the consequences of any interruptions or errors in the operation of its own site.
- 6.3. TRIVAGO shall be liable only up to the amount of damages as typically foreseeable at the time of entering into the AGREEMENT in respect of damages caused by a slightly negligent breach of a material contractual obligation ("Kardinalpflicht", i.e. a contractual duty the fulfillment of which enables the proper implementation of the AGREEMENT, the breach of which endangers the purpose of the AGREEMENT and on the fulfilment of which a Party regularly relies).
- 6.4. Nothing in this Agreement will exclude or limit:
- (a) any liability arising from death or injury to persons caused by negligence of the PARTIES; or
 - (b) any liability arising as a result of its fraud, fraudulent misrepresentation, repudiation or abandonment of or willful non-compliance with its obligations under these TERMS.
- 6.5. Each Party ("Indemnifying party") shall indemnify and hold the other Party ("Indemnified party") harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the Indemnified Party as a result of or in connection with any liability, loss, damage, injury, cost or expense sustained by the Indemnified party, the Indemnified Party's employees or agents or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises as a consequence of:

- (a) any alleged or actual infringement, whether or not under German law, of any third party's Intellectual Property Rights or other rights connected in any way with any act or omission of the Indemnifying Party;
- (b) a breach of any applicable law by the Indemnifying Party;
- (c) a breach, negligent performance or failure or delay in performance of these TERMS by the Indemnifying Party.

6.6. The Indemnified Party will promptly notify the Indemnifying Party of all claims of which it becomes aware (provided that a failure or delay in providing such notice will not relieve the Indemnifying Party's obligations except to the extent such Party is prejudiced by such failure or delay), and will:

- (a) provide reasonable cooperation to the Indemnifying Party at the Indemnifying Party's expense in connection with the defense or settlement of all claims; and
- (b) be entitled to participate at its own expense in the defense of all claims.

6.7. The Indemnified Party agrees that the Indemnifying Party will have sole and exclusive control over the defense and settlement of all claims; provided, however, the Indemnifying Party will not acquiesce to any judgment or enter into any settlement, either of which imposes any obligation or liability on the Indemnified Party without its prior written consent.

7. Force Majeure

7.1. Neither Party shall have any liability or be deemed to be in breach of this Agreement for any delays or failures in performance of these TERMS which result from circumstances (force majeure events) beyond the control of the Party whose performance is being affected, including but not limited to natural disasters, governmental or regulatory actions or restrictions, sanctions, embargoes, hostilities of any kind, wars, civil wars, terrorist acts, riots, insurrections, nuclear incidents, EMP, essential utilities failure, etc.

7.2. A force majeure event shall not prevent the PARTIES from exercising their right to terminate this Agreement in accordance with the relevant provisions set out herein.

8. Severability Clause

In the event that individual provisions of these TERMS are or become invalid or impracticable in whole or in part, or in the event that these TERMS contain unintended gaps, the effectiveness of the remaining provisions of these TERMS shall remain unaffected. In lieu of the ineffective, impracticable or missing provision, such effective and practicable provision shall be deemed agreed by and between the PARTIES which the PARTIES would have agreed by considering the commercial purpose, if they had been aware of the ineffectiveness, impracticability or gap of the relevant provision upon conclusion of these TERMS. The PARTIES are obliged to confirm such provision in an appropriate form, at least in writing.

9. Choice of Law and Place of Jurisdiction

9.1. These Terms shall be governed by the law of the Federal Republic of Germany.

9.2. The sole place of jurisdiction for all disputes arising from or in relation to these TERMS shall be the Regional Court of Düsseldorf (*Landgericht Düsseldorf*).