

## Mybestbrands Terms and Conditions for fairlyfab

**mybestbrands GmbH**, Herzog-Heinrich-Str. 23, D-80336 München, Germany ("**MBB**") runs websites featuring a marketplace and a search engine for sustainable products at [www.fairlyfab.com](http://www.fairlyfab.com) and potentially in the future other MBB operated URLs, as well as branded mobile applications ("**Apps**") (together "**fairlyfab Services**").

Aiming to generate traffic, leads and sales for its partners' online stores MBB uses integrated modules and various other technical solutions, including widgets, frames, banners, push notifications and emails to its registered users. The fairlyfab Services and technical solutions might be amended at any time in order to improve functionality.

The contracting partner runs an online shop for the sale of sustainable goods to end customers ("**Contract Partner**"). In certain cases, Contract Partner may be a (affiliate) network representing such online shops ("**Network**"). The Contract Partner wants to present itself and the goods from its online store as part of the fairlyfab Services.

The parties wish to cooperate in this context and therefore agree the following:

### 1. Subject Matter und Conclusion

- 1.1 Purpose of these terms and conditions ("**Terms and Conditions**") and the contract between MBB and the Contract Partner ("**Contract**") is the inclusion of the Contract Partner's or, if the Contract Partner is a Network, its Merchants' merchandise offers in the fairlyfab Services. In consideration, MBB receives a commission according to the cost-per-click (CPC) model, as agreed.
- 1.2 This contract shall come into force by confirming the T&Cs. The Contract Partner shall receive its specific access data for the Partner Account ("**Partner Account**") from MBB.
- 1.3 The Contract is only subject to these Terms and Conditions. Any terms and conditions by the Contract Partner do not apply and are not accepted by MBB.

### 2. Integration of Services and Placement

- 2.1 MBB is entitled to incorporate the Contract Partner's (or, if the Contract Partner is a Network, its Merchants') brand, name logo as well and all disclosed offers, including price, photos and descriptions of the products („**Partner Material**") into its fairlyfab Services in accordance with these Terms and Conditions. Contract Partner shall provide and update all needed data, graphics and other material in accordance with the MBB guidelines available here: [https://partnerweb.fairlyfab.com/feed/ff\\_feedSpecification.pdf](https://partnerweb.fairlyfab.com/feed/ff_feedSpecification.pdf) ("**MBB Guidelines for fairlyfab**"), which are an integral part hereof. For the avoidance of doubt, where Contract Partner further to product related photos provides campaign photos, such material shall be deemed Partner Material as defined above, but subject always to the restrictions set out in below cl. 2.2.

MBB shall also be entitled to search the Contract Partner's (or, if the Contract Partner is a Network, its Merchants') websites online and to link product URL's content.

Contract Partner is fully responsible for the validity of all product data, pricing, URLs and all other information provided to MBB and all information presented on the Contract Partner's websites (or, if the Contract Partner is a Network, its Merchants' website), as well as the correctness of the respective offers. For clarification only, Contract Partner is also solely responsible for all aspects of the processing and execution of any transactions resulting from the fairlyfab Services.

- 2.2 MBB has the right to use the Partner Material, including product information, names, descriptions, graphics, pictures, brands, logos and trade names within the fairlyfab Services, including any third party traffic acquisition campaign, search engine marketing, re-targeting and/or affiliate campaigns. This includes the right any necessary adaptations for appropriate display, e.g. cropping of product photos. MBB may use Partner Material to run fairlyfab-related teaser campaigns, but solely on its own properties and any use of any campaign photos in excess thereof, including on any third party properties, shall always be subject to specific approval.
- 2.3 Subject to above para 2.2, any use of the brand, logo, trademarks and trade name of Contract Partner by a third party shall be subject to Contract Partner's written approval.
- 2.4 Should the Contract Partner have reason to believe that the Partner Material does not meet the requirements of Paragraph 5 below, such material shall promptly be removed, within the technical capabilities of the Contract Partner's user account, from its offers and if technically impossible, MBB shall immediately be informed of such circumstances, including providing information allowing for the retrieval of the materials involved.
- 2.5 MBB may, at its reasonable discretion, stop the Partner Account and/or remove offers and Partner Material in whole or in part from the fairlyfab Services. This applies particularly, if MBB has reason to believe that the materials and offers are contrary to the requirements of Paragraph 5 below. MBB assumes no obligation to monitor the Partner Materials.
- 2.6 In no event is MBB responsible for achieving any work result or economic success. Within the facilities offered by the Partner Account, Contract Partner can control its activities on the fairlyfab Services, e.g. by removing offers completely or temporarily.
- 2.7 MBB reserves the right to decide if and when and in which order of priority the Contract Partner and its offers are placed in the fairlyfab Services. MBB does not give any warranty or guarantee with respect to the listing of each of the Contract Partner's offers (or, if the Contract Partner is a Network, its Merchants' offers). MBB does not give any warranty or guarantee with respect to a specific placement on the fairlyfab Services. MBB also reserves the right to suspend or stop the application of the Contract Partner's offers at any time at its reasonable discretion, including upon breach of contract or infringement of third party rights.

### **3. Prices, invoicing, terms of payment**

- 3.1 Set-up fee will apply for the establishment of the Partner Account. The set-up fee is due with the first invoice.
- 3.2 The Contract Partner agrees to pay the cost-per-click based fee for each redirect (CPC) as agreed between the parties.
- 3.3 The CPC fee is calculated as follows: A valid redirect for the CPC occurs when a user clicks on an offer at [www.fairlyfab.com](http://www.fairlyfab.com), which is posted in the fairlyfab Services or another ad link displayed on the fairlyfab Services, which is directly linked to the specified Contract Partner URL. The price is calculated by multiplying the redirects with the agreed click fee. MBB records the number of referrals and calculates the click fee for this. The Contract Partner acknowledges that only the MBB system and referral evaluation are valid in the determination of any applicable CPC fees.
- 3.4 All prices are net prices in Euro, excl. any applicable VAT and other taxes arising.
- 3.5 Applicable fees will be invoiced on a monthly basis. MBB will present an invoice at the beginning of the month for the previous month. Invoice amounts will be due for payment and collected no later than 2 weeks after invoice date. If the invoice is not paid on time, the campaigns will be paused until full payment is made.
- 3.6 The rights of the Contract Partner and the liability of MBB for repayment claims in the form of credit for possible fees caused through invalid views, referrals or orders are limited: The Contract Partner must, for repayment claims in the form of credit, make written notification (email is sufficient) to MBB within 60 days of billing, otherwise the invoice is considered approved. A credit granted must be used within 90 days of confirmation.
- 3.7 The Contract Partner shall be allowed to audit the click-out measurements through a third party committed to professional confidentiality. The Contract Partner bears all costs for this audit. Should a difference between the billed and actual payment to be settled be more than 5% to his disadvantage, MBB will pay the costs of the audit.

### **4. Partner Account**

- 4.1 MBB shall make the Partner Account available for the Contract Partner. The Contract Partner agrees to use this Partner Account solely for the contractual use of the fairlyfab Services.
- 4.2 The Contract Partner is obliged to maintain secrecy of the access and agrees that only authorized persons will have access to the Partner Account. Authorized persons are persons who need access and are bound by the same obligations as the Contract Partner with respect to the use of the Partner Account. MBB may post contract-related messages and notices regarding the fairlyfab Services in the Partner Account.

4.3 The Contract Partner agrees not to recreate, copy, decompile, or change in any way the source code of the Partner Account, the websites, Apps or other software or technology of MBB or any part thereof, unless expressly permitted by applicable laws.

## **5. Guarantee and Exemptions, Breach of Contract and Obligations, Country Specific Regulations**

5.1 The Contract Partner agrees and guarantees that the Partner Materials and their use according to this Contract (a) do not violate any laws, in particular the trademark law, the law against unfair competition and price regulation; (b) in no way infringe copyrights, trademarks, patents, trade secrets or other intellectual property rights of third parties; (c) are not false or misleading, or offending, are not defamatory, libellous, or otherwise objectionable.

5.2 The Contract Partner guarantees that (a) it has the right and the ability to enter into this Contract and to grant MBB all of its rights herein; (b) it is authorized to sell, distribute and provide the selected products and services on the fairlyfab Services; and will not offer merchandise that is not an original product of the manufacturer (c) it possesses all necessary licenses or other official permits to operate his business; (d) will provide information to MBB for the fairlyfab Services, which is true in all respects, correct und complete, especially trade, credit or financial information, and (e) its use of the fairlyfab Services complies with applicable law and the MBB Guidelines.

5.3 The Contract Partner shall indemnify and hold MBB and its agents harmless from all third party claims, damages and expenses (including legal costs), incurred in connection with any breach of a warranty or guarantee contained herein.

5.4 The Contract Partner shall ensure that the use of the fairlyfab Services will not be used for illegal actions and will comply with all applicable laws and privacy policies of MBB. In particular, the Contract Partner shall not offer any products or services in the fairlyfab Services, whose sale, distribution, or provision is illegal or violates any intellectual property or other rights of third parties. The Contract Partner shall not take in any actions that lead to MBB violating its own privacy policy or the privacy policy of the Contract Partner.

5.5 In addition, the Contract Partner shall insure not to interfere, directly or indirectly, in the proper functioning of the fairlyfab Services, to commit any fraud, e.g. not to publicize, manipulate or alter assessments or news of himself or his products in the fairlyfab Services, or to inaccurately present his identity, the supplier or other pertinent information for the distribution of the products offered.

5.6 The Contract Partner shall not place any links on the fairlyfab Services to other websites that; (a) advertise or lead to competitors of MBB, (b) are defamatory, obscene, unlawful, vexatious, libellous, infringing on the privacy of others, abusive, threatening, harmful, vulgar, unlawful, or includes objectionable material or could infringe intellectual property rights or violate other rights or (c) provide services or make offers that compete with MBB or which mislead or confuse the consumer of the partner's affiliation with MBB.

## **6. Confidentiality**

- 6.1 The parties agree to keep business and trade secrets of the other party confidential beyond the Contract period and to inform third parties only if legally required and with prior notification to MBB in order to give MBB the opportunity to undertake protective measures.
- 6.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 6; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 6.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.

## **7. Liability**

- 7.1 MBB is liable in accordance with the statutory provisions if damage is caused by an intentional or gross negligent breach of duty by MBB or one of its legal representatives or agents.
- 7.2 MBB is also liable without restrictions for damages from injury to life, body or health, for contractually guaranteed conditions of the fairlyfab Services and for fraudulently concealed defects. Further, the liability under the German Product Liability Act remains unaffected.
- 7.3 MBB is liable for slight negligent breaches of essential contractual obligations. Essential obligations are (i) such the breach of which is putting at risk the achievement of the contractual purpose, (ii) only enable performance or fulfilment of the Contract and are regularly relied upon by the other party. In this case, MBB is only liable for the typically foreseeable damages. MBB is not liable for slight negligent breaches of any other obligations than mentioned in the previous sentences (subject always to Clause 7.2 above).
- 7.4 To the extent MBB's liability is excluded or limited, such exclusion or limitation also applies to MBB's employees, legal representatives or agents.

## **8. Term and Termination**

8.1 This Contract shall commence on the Effective Date and shall continue until it is terminated according to Clause 8.2 below.

8.2 Either Party may terminate this Contract by giving written notice to the other party of one week, which notice shall be effective at the end of the month. The right to an extraordinary termination for cause remains unaffected.

## **9. Intellectual Property and Copyrights**

9.1 Any intellectual or other property right, including copyright, in the technology of the fairlyfab Services, in whole or in part, shall vest solely with MBB.

9.2 The Contract Partner recognizes MBB's sole authority to and in respect of trademarks from MBB. Unless agreed otherwise in writing, neither party has any right to or to receive trademarks of the other party.

## **10. Warranty**

The fairlyfab Services are provided without any special assurance, that is, the fairlyfab Services are provided subject to availability and without any guarantee in regards to a specific purpose.

## **11. Closing Provisions**

11.1 This agreement constitutes and contains the entire agreement between the parties with respect to its subject matter. Subject always to individual agreements, any change and amendment shall require written form to be valid, for which text form, including by email, suffices.

11.2 The contractual relationship shall be governed exclusively under German law. The regulations contained in the UN Convention of Contracts for the International Sale of Goods are excluded. All disputes arising out of or in relation to this agreement shall be subject to the exclusive jurisdiction of the courts in Munich, if the customer is a merchant entered in the commercial register or has no general residence in Germany.

11.3 Should any provision of this agreement, in whole or in part, be invalid, the validity of the remaining provisions shall not be affected. The parties will agree in this case, to replace the invalid provision with a valid provision, which comes as closely as possible to the commercial purpose of the invalid provision.

**March 2022**