

Appvertisers

1. Scope of application, service and charges

1.1 In the following the terms will be more specifically detailed for use of apprupt Performance Analytics (hereinafter "Performance Analytics") and of the apprupt affiliate network (hereinafter "apprupt Network") between apprupt GmbH, Große Reichenstraße 27, 20457 Hamburg (hereinafter "apprupt") and you. Please familiarise yourself with the terms and conditions of use. By accepting the terms and conditions of use you are obligating yourself to comply with them.

1.2 Performance Analytics:

Performance Analytics enables you to measure the success of your App (hereinafter also "App") Marketing, whilst your App Downloads are being returned to a specific mobile or online link ("Download Tracking"). Apprupt provides you Performance Analytics free of charge to use for analysing the sales of your Apps. The absence of a charge is thereby subject to change in the terms and conditions of use in accordance with subclause 7.

1.3 Apprupt Network:

The apprupt Network is operated under the domain apprupt.com and offers you the opportunity to log into individual websites or apprupt Partner Apps ("Partners"), which link to App Stores (iTunes, Android Market etc.). For legal transactions mediated via the apprupt Network, apprupt shall obtain a fee from you in accordance with subclauses 4.1 and 4.2.

1.4 Provided that you only use Performance Analytics and do not make use of the services of the apprupt Network (Performance Analytics and apprupt Network respectively also known as "Service" or together "Services"), the respective terms of these terms and conditions of use shall only be valid for the utilised service.

2. Registration, security and data protection

2.1 For the purpose of registration for Performance Analytics and/or for the apprupt Network you must provide apprupt with the complete and correct data required, such as name, valid email address and password ("access data") during registration. By completely filling out the registration form and accepting the terms and conditions of use you are submitting an offer for participation in the desired service. Should apprupt accept the offer, you will receive a confirmation email. Apprupt reserves the right to refuse acceptance of the offer without giving any reason.

2.2 During the contract period you are obligated, to keep your access data current at all times. Provided that you are an individual, you are guaranteeing with your registration, that you are at least 18 years old and are legally competent. In addition you are obligated always to treat your access data as confidential and assume complete responsibility for the use of your user account, be it by you or by a third party. In this respect you are liable for all activities transacted on your user account.

2.3 Apprupt guarantees that we will use your data exclusively for execution of necessary processes for Performance Analytics and/or the affiliate network. Apprupt always treats your internal data and business information as confidential and will not pass data along to third parties without your consent or without statutory basis. For further details please see the apprupt data privacy terms (<http://www.apprupt.com/en/privacy-policy.html>).

2.4 Apprapt selects the following data from the respective App during the use of services in order to be able to implement Download Tracking:

- Time of purchase
- iTunes Store ID
- Place of purchase (computer/iPhone)
- Type of device (iPhone/iPod touch)
- Device UDID (Unique User ID)
- Device firmware
- Device language code

3. Services and duties of care – Performance Analytics

3.1 Apprapt hereby grants you the revocable, limited, non-exclusive and non-sublicensable right of use, to use Performance Analytics exclusively to the extent necessary for the use of service.

3.2 You undertake to permit neither yourself nor a third party to reproduce or in any way alter the provided software inclusive of the provided software codes (“snippet”) for Download Tracking, to market commercially the software in any way, to disclose the source code of the software (with the exception of permission pursuant to §§ 69d, 69e of the German Copyright Act).

3.3 Your right for the use of Performance Analytics shall end with the termination of this agreement in accordance with the stipulation of subclause 6.

4. Services, duties of care and fee – apprapt Network

4.1 Apprapt shall log business transactions mediated over the network via Download Tracking during use of the apprapt Network and will provide you with the opportunity to see a corresponding overview within your user account. Download Tracking by apprapt is only applicable for the question of whether a business transaction has been mediated and for the resultant calculation of the fee resulting from it. Apprapt will obtain a transaction-based fee from you from the mediated business transactions based on the downloads (cost per order, „CPO“) in the amount of 30% of the net proceeds plus accruing legal value added tax where applicable, but not less than 0.35 euros per download. Net proceeds are calculated from the amount provided in the invoice from the respective App Store (iTunes, Android Market etc.) for the processing request of the respective application, less the App Store licence share.

4.2 Payment of the fee to apprapt shall be made via the PayPal payment service. You shall therefore ensure that your charged creditor account for the service is adequately covered. Should debt collection fail, you must reimburse apprapt for the incidental additional charges, provided that you are responsible for the failure. Further claims hereof shall remain unaffected.

4.3 You are solely responsible for ensuring that your Apps, which are integrated on partner websites via the apprapt Network for linking to App Stores, do not violate existing law or do not offend common decency and that you have at your disposal the necessary rights to your Apps and to the contents embodied therein. In addition you are solely responsible for ensuring that the Apps integrated by you are functional. Apprapt hereby clarifies that no rights exist for the incorporation of your Apps on the websites or in the partner Apps. Apprapt does not otherwise have any influence on partner websites and also does not monitor them.

4.4 You grant us the simple, territorially unlimited right to use the logos, images and descriptions of the

Apps placed on the apprupt Network by you, in order to advertise them as a reference in online and offline media.

5. Liability and indemnity obligation.

5.1 Apprupt strives continuously to develop the services offered. Individual components may be improved, expanded or altered by apprupt within the scope of this further development. Due to implementation of this necessary maintenance work and of improvements, it may occur temporarily that individual functions will not be available. Apprupt will remedy disturbances or failures without delay, provided that this is in fact possible and is in particular reasonable due to economic and legal reasons and provided that the impairments are not only immaterial.

5.2 A specific outcome is not guaranteed to you bound to your participation in the services offered by apprupt. Apprupt is not liable for damages or other disturbances that are based on the faultiness or incompatibility of your software or hardware, as well as for damages that arose due to the internet's lack of availability or due to the flawless functionality of the Internet. In addition apprupt is not liable in the case of force majeure and/or for services that are rendered by third parties, who are not agents, apprupt is specifically not liable for ensuring that these third party services (especially network services) are constantly available without interruption, free from defects and securely.

5.3 Should apprupt be held liable by a third party due to the violation of rights and/or legal provisions based on an infringement of duties from these terms and conditions of use, you shall be obligated to indemnify apprupt from all third party claims and damages arising therefrom. The indemnity obligation is valid accordingly also in favour of apprupt's agencies, representatives, agents and subcontractors, who are employed for the performance of the agreed services as well as in the favour of partners within the apprupt Network, who incorporate or display their Apps on the website.

6. Period of validity and terms of cancellation

The terms and conditions of use shall take effect from the date of their incorporation and shall remain effective until such time as one of the parties to the contract terminates the contract with 7 days notice for any reason and at any time. An appropriate message by email to support (at) apprupt.com shall suffice to give notice on the part of the user. The statutory right of both parties to the contract to give extraordinary notice of cancellation for important cause without adherence to the period of notice shall remain unaffected.

7. Changes to the terms and conditions of use

Apprupt reserves the right to make reasonable changes to the terms and conditions of use at any time. You will be informed of changes in a timely manner in each and every case. Should you fail to object to changes within an appropriate period set by apprupt and continue to use services after the notification of change, your conduct shall be deemed as a declaration of the acceptance of the changed terms and conditions of use.

8. Final clauses

8.1 Should individual clauses of the terms and conditions of use be ineffective in whole or in part or contain a loophole, the effectiveness of the remaining clauses or parts of such clauses shall remain unaffected.

8.2 The law of the Federal Republic of Germany shall apply exclusively.

8.3 Supplementary agreements have not been made and any such agreements must be made in writing

to be legally applicable.

8.4 If the user is a tradesperson or has no registered office within Germany, the parties agree that the court of jurisdiction for all disputes under the terms of this contractual relationship shall be Hamburg, Germany.

Publishers

1. Area of application, definitions

1.1 apprupt GmbH, Große Reichenstraße 27, 20457 Hamburg (hereinafter referred to as „apprupt“) is a vendor of an affiliate network for applications for mobile devices (hereinafter referred to as „App(s)“), such as the Apple iPhone and the iPod touch. apprupt offers publishers individual App stores for integration into their own websites (hereinafter referred to as „Publisher App Shops“) and, associated with apprupt Contvertising (hereinafter referred to as „Contvertising“), offers the the option of recommending, on a context-relevant basis as editorial content, interesting applications (Publisher App Shop and Contvertising hereinafter also referred to as „Publisher Solution“). iPhone / iPod touch Apps are downloaded by the respective user in the App store of Apple Inc. in accordance with the respective license provisions (EULA). apprupt assesses the transactions that are generated and, for this, receives through its affiliate platform a fee from participating App developers (hereinafter referred to as „Developers“).

1.2 The terms and conditions for use of the Publisher Solution offered by apprupt within the framework of the website(s) or application(s) offered by the Publisher under the agreement (hereinafter referred to as „Publisher Website(s)“) are more closely specified in the following. As the publisher, please familiarize yourself with the Terms and Conditions of Use. By accepting the Terms and Conditions of Use, you are obligated to adhere to them. apprupt and the publisher are hereinafter also collectively designated as the „Parties.“

1.3 To the extent that you, as the publisher, make use of only the Publisher App Shop and not the services of apprupt Contvertising, the provisions of these Terms and Conditions of Use apply only to the service of which use is made.

2. Registration, security and data protection

2.1 For participation in the Publisher Solution made available by apprupt, upon registration, you must make available, fully and correctly in terms of content, the data that are necessary for this, such as name, valid e-mail address, password and bank account (hereinafter referred to as „Access Data“). With the completion of the registration form and the acceptance of the Terms and Conditions of Use, you are submitting an offer regarding participation in the Publisher Solution. If apprupt accepts the offer, you will receive a confirmation e-mail. apprupt reserves the right to reject the acceptance of the offer without a stating any reasons.

2.2 As the publisher, you are obligated to always keep the Access Data current during the contractual term. If you are a natural person, you guarantee with your registration that you are at least 18 years old and are fully competent. In addition, you are obligated to always treat your Access Data confidentially, and you assume full responsibility for the use of your user account, be it by you or through a third party. In this respect, you are liable for all activities transacted through your user account.

2.3 apprupt assures you that it will use your data exclusively for carrying out the handling processes necessary for the Publisher Solution. apprupt will always treat your internal data and business information confidentially and does not forward data to any third party without your consent and/or a legal basis. For

more detailed information, please refer to apprups data protection provisions (<http://www.apprupt.com/privacy-policy.html>).

3. Rights and obligations of apprups

3.1 apprups shall make available to you, as the publisher, the Publisher App Shop in accordance with the previously agreed design parameters. apprups shall send you a corresponding link for the integration of the Publisher App Shop made available for you as a mobile browser version. The link (along with the software solution standing behind it) are in apprups ownership and may only be used for integration into the Publisher Websites. Furthermore, the publisher is to receive technical documentation for the integration of Contvertising and is to thereby provide reasonable assistance.

3.2 During the term of the agreement existing between apprups and the publisher, apprups is responsible for determining and entitled to determine the selection in terms of content of the Apps placed through the Publisher Solution, at its sole discretion. The selection by apprups is to take place with a results-oriented approach.

3.3 With regard to you, apprups shall take care of ongoing maintenance and management of the Publisher App Shop, including content management.

3.4 For the provision of the services under the agreement, apprups is entitled to employ third parties as service providers. In addition, apprups is entitled to provide partial performance.

4. Rights and obligations of the publisher

4.1 As the publisher, you are solely responsible for the technical implementation of the integration of the Publisher Solution into the Publisher Website(s). The Publisher App Shop made available by apprups is to be integrated through a fixed link in the footer navigation and within the column field. Contvertising is to be integrated in accordance with the agreed design parameters below the end of an article of each portal sub-page.

4.1 As the publisher, you affirm and warrant that you have acquired all necessary usage rights from the owners of copyrights, ancillary copyrights, trademark rights and other rights in the Publisher Websites and the content presented therein.

5. Grant of usage rights, release

5.1 apprups hereby grants to you as the publisher, for the term of the agreement, the non-exclusive, limited and non-sublicensable usage rights in the presented content of the Publisher Solution (particularly the logos and graphic designs). The granted use rights include the right to copy, distribute, publicly show and make publicly accessible the content within the framework of the Publisher Solution for the Publisher Websites, to the extent that such rights are necessary to carry out the agreement. In all other respects, apprups reserves all rights. Since no Apps are able to be licensed with the Publisher Solution, the publisher shall not receive any usage rights whatsoever in the Apps.

5.2 For the term of the agreement, after approval by the publisher, apprups is entitled to make reference in press releases and PR measures (under presentation of the trademarks and business designations of the publisher) that such Party is cooperating with apprups as a publisher. Approval is hereby issued to apprups for any such presentation on apprups website and in sales presentation materials.

5.3 Subject to the rights expressly granted herein, the Parties are not granted any additional rights re-

ardless of type, particularly in trademarks, company symbols, personal names, copyrights, and/or other intellectual property rights, and the Parties are not entering into any corresponding obligation to grant such rights.

6. Proceeds, proceeds participation and costs

6.1 The publisher is to receive 50% of the net proceeds obtained by apprpt with the Publisher Solution, plus, if applicable, the value-added tax that accrues by law (hereinafter referred to as „Proceeds Participation“).

6.2 Net proceeds are calculated from the affiliate commission for each transaction or placement paid by the Developers to apprpt, less taxes. The Parties make it clear that a participation of the publisher takes place only regarding sales proceeds for Apps obtained through the Publisher Solution, and not for other content acquired for iTunes.

6.3 apprpt shall make available a detailed evaluation of the net proceeds obtained through the Publisher Solution and transfer to you as the publisher the Proceeds Participation to which you are entitled in accordance with number 5.1, to the bank account that you stored in the Access Data. The proceeds participation shall be due for payment within one month after the expiration of the accounting month.

7. Maintenance work, liability, force majeure, indemnification obligations

7.1 apprpt aims to further develop the offered Publisher Solution on a continuing basis. Upon the conducting of maintenance work resulting from this, it may temporarily occur that individual functions of the Publisher Solution are not available. apprpt shall immediately remedy any disruption or loss, to the extent that this is actually possible and is particularly reasonable for economic and legal reasons, and that the impairments are not merely immaterial.

7.2 You are not assured of any certain success associated with the integration of the Publisher Solution and/or any certain Proceeds Participation. apprpt is not liable for either the uninterrupted accessibility of iTunes or for the content linked with the Publisher App Shop. Furthermore, apprpt is not liable for services that are furnished by third parties who are not its vicarious agents; in particular, apprpt is not responsible for the fact that such services of third parties (particularly network services) are always available securely, free of interruption or free of errors. In all other respects, apprpt disclaims any liability for violations of obligations based on ordinary negligence, to the extent that they do not concern damages arising from an injury to life, limb or health or a violation of warranties, or they are not based on claims arising from product liability law. Furthermore, liability for the violation of obligations, the fulfillment of which is absolutely required for the proper rendering of the services owed under the agreement and the adherence to which the publisher may regularly rely on, remains unaffected. The liability limitation contained in this paragraph also applies to violations of obligations of our vicarious agents.

7.3 In the event of any hindrance in any service caused by an event of force majeure, a strike, any other work stoppage, a lockout, a power failure, a loss of electronic systems and any comparable serious event, within the framework in which the complete and/or punctual rendering of the service thereby becomes impossible, the Parties are released from their respective obligation to perform. Claims for damages may not be asserted. This does not affect the obligation of the contractual parties to immediately inform one another of difficulties that are foreseeable or occurring and to work together to remedy them within the framework of what is possible.

7.4 Both parties bear sole responsibility for the permissibility and the correctness of the content of the services that they are to furnish under the agreement. If a third party asserts against one Party claims based

on the violation of rights and/or legal provisions due to an action that belong to the obligations to perform of the other Party, the Party to whose area of responsibility the action in question belongs shall indemnify the asserted Party from all claims and/or damages arising from this. This also includes the reasonable customary costs of legal defense, in the amount of the fees that accrue under the law. Both Parties are obligated to support one another in the defense against such claims, and in the event of a possible recourse against the other Party, give such Party the opportunity to defend against the corresponding claims by providing full information regarding the existing lawsuit.

8. Term and termination

The Terms and Conditions of Use come into force from the point in time of your inclusion and remain in force until one of the Parties terminates the underlying agreement. A termination is possible at any time and requires an appropriate notice by e-mail to support (at) apprupt.com. The statutory right of both Parties to extraordinary termination for good cause, without adherence to a termination period, remains unaffected.

9. Amendment to the Terms and Conditions of Use

apprupt reserves the right to, at any time, undertake reasonable amendments to the Terms and Conditions of Use. In each case, as the publisher, you will be notified on a timely basis of any corresponding amendment. If you do not object to such amendments in a reasonable period set by apprupt, and the use of the Publisher Solution continues after notification of the amendment(s), your conduct is deemed to be a declaration of acceptance of the amended Terms and Conditions of Use.

10. Concluding provisions

10.1 If individual provisions of the Terms and Conditions of Use are ineffective (in whole or in part) or contain a gap, the effectiveness of the remaining provisions or components of such provisions remains unaffected by this.

10.2 The law of the Federal Republic of Germany is solely applicable.

10.3 If the user is a trader (Kaufmann) or if he does not have a registered office within Germany, for all disputes arising from this contractual relationship, the Parties agree to Hamburg as the area of jurisdiction.