

## **T&C's Lead Generation**

### **1. Subject matter of the Agreement**

- 1.1 Gold Search Media (hereafter referred to as "the seller"), operates a variety of online campaigns and internet sites in order to generate leads on behalf of itself and various organisations. These internet sites (and other) generate leads for the client.
- 1.2 In addition to the services described under Point 1.1 Gold Search Media also provides other services in digital media and dialog marketing. A detailed up-to-date list of these services can be requested from Gold Search Media at any time.

### **2. Scope of General Terms and Conditions, offers, contract conclusion**

- 2.1 These terms and conditions shall apply to all services provided by Gold Search Media in connection with the agreement on lead generation.
- 2.2 Any general terms and conditions of the Client are excluded. Gold Search Media hereby expressly rejects the applicability of any general terms of business of the Client. This express rejection will extend to any general terms and conditions received by Gold Search Media or any reference made by the Client to any such terms, without Gold Search Media being required to reiterate this rejection in every such case. Specifically, the provision of services or their acceptance shall not be interpreted as Gold Search Media consent to any such terms. Any further express inclusion of these General Terms and Conditions by reference will not be necessary for follow-up business.
- 2.3 All offers made by Gold Search Media are subject to change, unless the relevant offer states otherwise. Any and all agreements between Gold Search Media and the Client must be made in writing. This shall also apply to any amendments to this stipulation requiring written form.

### **3. Information, advertising materials, legal subrogation, compliance**

- 3.1 The client shall provide Gold Search Media, within 5 working days of the start of contractually agreed services, with all information and materials required for the orderly execution of the service, in particular a logo from the client and, if applicable, a digital photograph. If the advertising materials provided prove to be unsuited or partially unsuited (due to presentability issues or bad performance/conversion) for the service, Gold Search Media is entitled to make either contextual or technical changes or corrections to the materials in order to optimize the presentability or performance/conversion. Alternatively, Gold

Search Media has the right to return the materials based on stated reasons. In this case the client shall provide Gold Search Media immediately with new materials that take into consideration the reasons originally given for returning the old materials. All costs, charges and lost profits due to the delayed or nonexistent assistance from the client are to be reimbursed. All rights to works created by Gold Search Media remain with Gold Search Media.

- 3.2 The client grants Gold Search Media the appropriate rights to execute the contractual service and guarantees to be either the owner of these rights or have the authorization to grant these rights to Gold Search Media.
- 3.3 The client confirms that carrying out the service in accordance with the contract will not violate legal provisions or the rights of third parties. In particular, the client is solely responsible for the legal compliance of the content of the advertising materials provided/specified by the client, and for the legal compliance of the service or product advertised for. In particular, the client will ensure that there are no sexual or pornographic representations in the advertising material, that no names or terms are used that indicate sexual or pornographic programs or promote content with sexual or pornographic elements or elements that may be harmful to youth, and that the client has attained all required legal authorization from the appropriate governmental agencies for the service or product advertised for. Gold Search Media is not obliged to check orders for legal compliance.
- 3.4 Upon first request, the client will indemnify Gold Search Media in respect of all losses, damages and costs including the costs of legal action against (including fees for legal representation) arising

- duplicate delivery of a data set within one calendar week

from a breach of law or breach of these terms and conditions by the client, to the extent that expenses are incurred in defending against claims by third parties, including claims by the appropriate supervisory authorities.

#### **4. Lead generation**

4.1 Gold Search Media asks the interested party for express consent to forward contractually agreed profile and personal data to the client and to use this personal data vis-à-vis the client for the purposes stated in the contract.

4.2 The consent is collected in the contractually agreed process.

The process is that an email address has not been abusively entered by a third party in a web form

4.3 is only guaranteed this exclusivity is expressly agreed to in

the contract. If this is not the case, leads can be generated for multiple clients at the same time.

4.4 Addressees that have already expressed to the Client that they do not want to be contacted by that Client are to be announced to Gold Search Media before the start of lead generation.

#### **5. Data transfer, data usage**

5.1 Gold Search Media will transfer the generated leads to the client on the contractually agreed dates. The data is sent unencrypted in an email or web form format unless otherwise contractually agreed.

5.2 The client is obligated to use the leads solely for the intended contractual purpose, for which consent has been given by the lead. The client is not authorized to use the leads for third parties without consent (unless the contract states otherwise), or to transfer the data to third parties (outside of commissioned data processing).

5.3 From the moment the data is transferred, the Client is owner of the data and assumes legal responsibility for the protection of the data according to applicable data protection laws.

5.4 Gold Search Media is entitled to integrate control data sets into the transferred leads. If it can be proven that at least one data set has been improperly used according to Point 5 of these terms and conditions, the client is obligated to pay liquidated damages.

#### **6. Complaint causes**

6.1 In case of a valid complaint cause concerning a particular lead, the lead is not to be remunerated. A valid complaint cause is given in the following cases:  
- missing attributes in contractually agreed required fields

6.2 The Client is obligated to send Gold Search Media an email, within 5 working days of the transferred, with a list of leads for which a valid complaint cause is given. The particular complaint cause has to be specified for each lead. After the notice period of 5 working days has expired, complaints for leads can no longer be made.

#### **7. Provision of the service**

7.1 Within 5 working days of the initial service provision, the client is obliged to check if the service is provided in accordance with the contract, and to inform Gold Search Media in writing of any complaints. If the client does not make such an announcement within this time or in this way, then the service carried out is considered to be in accordance with the contract.

7.2 Complaints and demands for information addressed directly to the Client (regarding issues of competition or data protection law) are to be handled by the client itself. Gold Search Media will support the Client in an appropriate way.

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7.3 Gold Search Media Ltd is not obligated to deliver the contracted service if the Client is in breach of any legal provisions or infringes any obligations held within these terms and conditions.

7.4 Should the non-performance of contractual services be

attributable to force majeure or other circumstances beyond Gold Search Media Ltd's control, Gold Search Media Ltd shall not be required to fulfil the contract for the duration of these events.

7.5 Gold Search Media Ltd is entitled to employ sub-contractors – also for lead generation. The hiring of sub-contractors by Gold Search Media Ltd does not affect the contractual obligations of Gold Search Media Ltd vis-à-vis the client.

7.6 After the contract has been fulfilled, Gold Search Media Ltd is entitled to destroy any information or materials supplied by the client for the execution of the service.

## 8. Payment conditions

8.1 All remuneration is subject to the legal applicable VAT.

Payments are due immediately after invoicing, with no deductions. Gold Search Media Ltd is entitled to charge interest according to legally regulated amounts if a delay in payment occurs. The claim to other damages remains unaffected.

8.2 The Client can offset claims arising from this contract only against undisputed or legally determined claims arising from this contract.

8.3 Gold Search Media Ltd is entitled, despite contradictory terms from the client, to offset existing older debts with incoming payments first. The client will be informed of the type of settlement selected. If costs and interest have already been incurred, Gold Search Media Ltd has the right to apply the payment first to offset these costs, then to offset the interest and lastly to offset the primary service.

8.4 If the client is in payment arrears or if an application is made to open bankruptcy proceedings against it, then Gold Search Media Ltd can withhold further services and submit an invoice for all services already provided. In this case, Gold Search Media Ltd is entitled to make any commitment to further services subject to the pre-payment of all existing orders, even if they have already been contractually agreed. This does not affect pecuniary claims and the enforcement of further claims for damages.

## 9. Liability

9.1 Gold Search Media Ltd assumes, within legal terms, unlimited liability for damages caused

by injury to life, body or health that were caused by intentional or grossly negligent behaviour on the part of Gold Search Media Ltd or a legal representative or agent of Gold Search Media Ltd.

9.2 For other damages, Gold Search Media Ltd assumes liability, within legal terms, as follows: Gold Search Media Ltd assumes unlimited liability for damages caused by intentional or grossly negligent behaviour on the part of Gold Search Media Ltd or a legal representative or agent of Gold Search Media Ltd, and for damages that fall within the scope of protection governed by an Gold Search Media Ltd guarantee or warranty.

Gold Search Media Ltd assumes limited liability for the reimbursement of predictable damages caused by a slightly negligent breach of an essential contractual obligation.

For other instances of slight negligence Gold Search Media Ltd assumes no liability.

9.3 The liability for data loss is limited to the typical costs of recovery that would have been incurred for creating a conventional backup copy and that conforms to the risk.

9.4 All claims for compensation against Gold Search Media Ltd will come under the statute of limitations after one year.

9.5 If liability is excluded, then the personal liability of employees, representatives, sub-contractors and other employees is also excluded.

9.6 If the service is not carried out perfectly and its purpose is significantly affected, the client can claim for it to be repeated perfectly. This applies particularly in cases where Gold Search Media Ltd has not carried out the service, or carried it out only in part, due to technical malfunctions. A claim for a reduction in remuneration may only be made if a repetition is not possible or is not reasonable for the client. The client can set a suitable period for the repetition. If the repetition is not performed within this period, then the client can demand a repayment of remuneration to the extent that the service was not carried out properly.

9.7 If a service is not provided, or provided imperfectly, due to the client not providing the required information or materials, or providing incomplete, late or incorrect materials or cooperation, the entire remuneration has to be paid by the client.

9.8 Gold Search Media Ltd can not be held responsible for the availability of telephone lines, the internet, electricity, or servers outside its control

## **10. Termination**

The contract cannot be terminated during its agreed term. Gold Search Media Ltd is entitled to terminate the contract with immediate effect if the client is in breach of its obligations under point 5 of these terms and conditions.

## **11. Confidentiality, privacy/data protection**

The Client is hereby notified that Gold Search Media Ltd stores the Client's data in machine-readable form and processes such data electronically for contractual purposes. The Client hereby agrees to such storage. To the extent that Gold Search Media Ltd uses any thirdparties for the performance of services, Gold Search Media Ltd shall be entitled to make the relevant data available to such third parties if and when required.

The content of this agreement and any other confidential information must be treated as strictly confidential by the parties and may only be disclosed to any third parties where this is mandated by law. Information that was demonstrably known to the Client and/or Gold Search Media Ltd at the commencement of their contract negotiations or that entered into the public domain either before or after conclusion of the contract, without wrongful act on the part of the Client or Gold Search Media Ltd, are not deemed to be confidential information.

## **12. Miscellaneous**

12.1 The exclusive legal venue for all disputes arising from or in connection with the contractual relationship and place of performance shall be Manchester.

12.2 English law shall apply. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

12.3 If any provision hereof is or becomes invalid or unenforceable, in whole or in part, the remaining provisions shall remain in full force and effect. In such cases, the invalid or unenforceable provisions shall be replaced with valid and enforceable provisions that come as close as possible to the economic result of the original provision in the light of the purpose and the intention of this agreement.