

## **Omio Affiliate Program General Terms and Conditions**

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These General Terms and Conditions (“**Terms and Conditions**”), the Individual Agreement and the Affiliate Network Terms (all referred herein as “**Agreement**”) govern your relationship with Omio Travel GmbH with registered office at Warschauer Platz 12, 10245, Berlin, Germany, company number HRB 138345 B (hereinafter “Omio” or “we”) under the Omio Affiliate Program.

By registering and signing up to the Omio Affiliate Programme as an Affiliate, the Affiliate hereby acknowledges, accepts and agrees to the Terms and Conditions.

The acceptance or rejection of the application is at Omio’s sole discretion. The Affiliate will be informed about the status of its application within fourteen (14) working days after submission of the application.

## **I. Definitions**

- A. “Affiliate Channels” means all marketing communications such as Affiliate’s social media or newsletters, amongst others approved by Omio in writing on which Affiliate promotes Omio through the advertising material and redirects End-users to complete a Booking to Omio Site.
- B. “Affiliate Partner Services” means the Widget Services and the Referral Marketing Services provided by Omio to the Affiliate as agreed in writing between the Parties from time to time;
- C. “Affiliate Payment” is those monies payable by Omio to the Affiliate in respect of the Affiliate Partner Services as agreed between the parties from time to time through the online portal facilitated by Omio or otherwise in writing;
- D. “Affiliate Site” means the Affiliate operated website(s) at the URL notified to Omio via the online portal, and any Affiliate applications notified by the Affiliate and approved by Omio in writing from time to time;
- E. “Affiliate Network” is an intermediary between affiliates and advertisers or merchants who collaborate together to promote their products or services (e.g.- Impact Radius or CJ). The affiliate network provides a platform or service for affiliates and advertisers to establish and manage their relationships by handling tasks like tracking clicks and conversions, managing payments or providing reporting and analytics.
- F. “Affiliate Subnetwork” denotes an Affiliate Network that maintains a contractual affiliation with another Affiliate Network. This Affiliate Subnetwork may agree with the Affiliate Network participating in the Omio Affiliates Program to extend services to Omio.
- G. “Booking” means a successful reservation based on the confirmed purchase of a travel service



made by an End-user following and as a result of an End-user Click; successful reservation being considered a travel service effectively taken and not canceled by the End-user. If a reservation is partially canceled, the Affiliate Payment will be adjusted to the part of the reservation that is still valid;

- H. "End-user" means any human end-user of the Affiliate Site;
- I. "End-user clicks" means the referral of an End-user from the Affiliate Site or Affiliate Channels to the Omio Site through a Qualifying Link.
- J. "Omio Marks" means Omio trade names, trademarks or service marks.
- K. "Omio Site" means the website located at the URL [www.omio.com](http://www.omio.com) (or any of its subdomains, or other URL which replaces this URL or is used in addition to target specific geographic markets) and any Omio applications for use on mobile devices which incorporate the same or similar functionality and/or content;
- L. "Order Inquiries" refer to a request made by the Affiliate, as per the format indicated by Omio, to request the eligibility of a transaction for Affiliate Payment.
- M. "Qualifying Link" means the unique tracking link or the advertising code provided by Omio to the Affiliate.
- N. "Widget Services" means a proprietary software, data and content service as updated from time to time and any other ancillary, derivative or similar product which is provided to the Affiliate by Omio under this Agreement and which allows the Affiliate to include travel results and data powered by Omio on the Affiliate Site via a widget /code snippet.

## II. Restrictions and unauthorized activities

- A. Omio does not accept the following **content** and does not allow the following **ways of promotion**:
  - 1. Unethical, libelous, defamatory, obscene, abusive, indecent or pornographic content (e.g. pictures and descriptions of violence or injuries, nude pictures or drawings, texts relating to sex or lewd objects or behavior), or otherwise offensive;
  - 2. Violence, content glorifying violence or content apt to encourage or glorify hatred or violence;
  - 3. Vilification or discrimination based on sex, religion, nationality, disability, sexual orientation, age, race or any other protected characteristics;
  - 4. Illegal goods, weapons, gambling activities, stolen products and items used for theft, fireworks, explosives, and hazardous materials, government IDs, police items, or any other

unlawful behavior, service or activity;

5. Content aimed at children;
6. Any materials which infringe or assist others to infringe any copyright, trademark or other intellectual property rights, including the use of Omio Marks without Omio's prior written consent, including but not limited to the use of "Omio" or variations or misspellings thereof in a URL or domain name;
7. Utilizing any spyware, adware, or other malicious programs or code, meaning any software or functionality able or used to disrupt computer operations, gather sensitive information, gain access to private computer systems, or display unwanted advertising (e.g. computer viruses, internet worms, Trojan horses, hoaxes, dialers); as well as doing any hacking/ phishing/ surveillance/ interception/ descrambling equipment;

B. Affiliate is not allowed to use the following **methods or channels**:

1. Unfair or misleading commercial practices; all other forms of internet abuse, including spamming forums, blogs, newsgroups, message boards or link farms.
2. Unsolicited mass distribution of email;
3. Use search engine marketing (SEM) techniques (using Omio's or any of our transportation partners trademarks, name or offers, including brand bidding, keywords, meta-tags, misspellings ) or other methods such as retargeting campaigns, to send traffic directly to the Omio Sites without coming from the Affiliate Site.
4. Misleading search engine manipulation;
5. Pop up and pop under inventory;
6. Any devices, programs, robots, iframes or hidden frames in order to generate Bookings.
7. Any usage of bots, machine simulation or other practices that simulates the behavior of real End users. For clarity, Bookings not made from actual End-users will not qualify for Affiliate Payment.
8. Guerrilla marketing (e.g. via interstitials, parasitware, shopping assistance applications, toolbars, add-ons, shopping wallets), scripts or mechanisms that can manipulate or potentially enable miscalculations or diversions of commission; not refer traffic to Omio Site from toolbars, extensions, and plug-ins unless prior written approval by Omio; not use disruptive ad formats (like pop up banners), cookie stuffing, toolbars and browser extensions, bots or any other fraudulent activity that is not related to a genuine End-User;

9. App discovery inventory unless prior approval by Omio is granted (e.g.- traffic from discovery apps like FreeAppaDay, App-o-Day, MagicSolver, Appsfire)
  10. Icon drop inventory; placing an app's icon on a user's smartphone without his/her knowledge and once he/she clicks on the icon he/she is redirected to the App Store/Google Play store to download the app.
  11. work with cashback sites, coupon sites or other third party sites that have not been approved by Omio (e.g.- coupon codes that are not directly provided by Omio to the Affiliate under this Agreement will be considered invalid);
  12. promote "error fares" from the Affiliate Site, being fares that are offered by Travel Partners in error and are which are not available or unlikely to be honored.
  13. refer traffic to Omio from unavailable, incomplete, broken, empty pages or pages that in Omio's sole opinion do not guarantee a satisfactory experience for End-Users; and
- C. To the extent that Omio is providing the Affiliate with the **Widget Services**, the Affiliate shall:
1. not share the login details or provide access to the Widget Services portal to any third party, unless approved in writing by Omio;
  2. not access or in any way exploit any underlying data, code, content or other material provided by Omio in conjunction with the Widget Services;
  3. not combine or bundle the Widget Services (or any part of the Widget Services) with other data, information or content;
  4. not charge End-Users (whether directly or indirectly) for the use of the Widget Services;
  5. not remove, alter, tamper with or in any way change the Widget Services, including the Omio Link in any manner not permitted by Omio;
  6. not (and must not authorize others to) copy, distribute, communicate to the public, edit, alter, sell, rent, lend or otherwise use the Widget Services other than as permitted in accordance with these Terms and as approved by Omio;
- D. To the extent that the Affiliate is a Network, the **Affiliate Network** shall:
1. not refer traffic to Omio Site from non-transparent Affiliate Sites, performance agencies and/or subnetworks unless these have been priorly approved by Omio in writing;
  2. not promote and oblige their Affiliates to not promote any cashback services and/or coupon sites.

### III. Affiliate's rights and obligations

- A. Omio grants the Affiliate a non-exclusive, royalty free right to promote and market Omio and its services through approved advertising material displayed in the Affiliate Sites and Affiliate Channels subject to and during this Agreement. This permission is revocable at any time and can be utilized only in connection with the Qualifying Link and advertising materials either provided or approved by Omio.
- B. In the context of participation in the Omio Affiliate Programme, the Affiliate shall provide its services in a professional manner. The Affiliate shall not use the Omio Affiliate Program in any manner whatsoever that may prejudice or damage Omio's business.
- C. Affiliate has to represent himself and his Channels independently from Omio. Affiliate's identity should not be misinterpreted as well as his domain and return email. URLs, text links and link descriptions that refer to Omio Site are operated in a way that forwarding to the Omio Site is easily recognizable for the End-user. The Affiliate shall refrain from any automatic and deceptive redirects to the Omio Site.
- D. The Affiliate is permitted to engage in SEM, but only with respect to sending traffic to the Affiliate Sites, and not to Omio Sites, any pages designed to look like the Omio Sites or otherwise associated with Omio. Omio does not grant the Affiliate any license to use any of the names of our transportation partners for SEM purposes; such use will be at the Affiliate's own risk.
- E. Advertising material.
  - 1. Omio may provide advertising material through its online portal, such as text links, banners, or templates, and Qualifying Link(s). Affiliate shall only use Qualifying Links provided by Omio for each creative material, text or widget, and shall observe instructions of Omio in relation with advertising material and conform to all necessary requirements.
  - 2. Approved advertising materials must only be included on Affiliate Sites and/or Channels.
  - 3. The use of the Affiliate's own advertising material requires written prior approval by Omio. The approval or rejection of the advertising materials is at Omio's sole discretion. The Affiliate guarantees that its own advertising materials and their application are not prohibited by law or third party rights.
  - 4. The Affiliate shall check from time to time the online portal to ensure that the materials in use are accurate and up to date (e.g.- avoid using an outdated logo, or an old brand campaign).
  - 5. The Affiliate is obliged to ensure that all advertising material for Omio is displayed in accordance with all applicable laws and regulations and not use the Affiliate program for illegal or illegitimate purposes.
- F. To the extent that the Affiliate is using the Widget Services, the Affiliate will be able to customize the look, feel, form, format or appearance in compliance with the guidelines provided by Omio.

The Affiliate shall use the Qualifying Link(s) provided by Omio through the online portal.

- G. The following constitute a non-exhaustive list of cases where the Bookings will be reversed and, as a consequence, will not qualify for Affiliate Payment :
1. Any Booking generated infringing any of the methods, channels, content, behaviors, or others contained in clause 3;
  2. Any Bookings generated through actions performed in other channels than affiliate marketing (e.g.- CRM campaigns) and not using the Qualifying Link(s) directly provided by Omio (e.g.- “Invite-a-friend“ referral program would not be valid).
  3. Any Bookings and/or Order Inquiries not reported in the format approved and provided by Omio.
  4. Any Bookings generated on cashback/rewards for prohibited providers as notified by Omio from time to time.
  5. Any Booking generated using a double discounted method (e.g.- combination of cashback and voucher coupon used at the same time) unless approved by Omio.
  6. Any Bookings generated using uncertain traffic sources through the Affiliate Networks

#### **IV. Omio’s Rights and Obligations**

- A. Omio shall grant Affiliate the necessary rights for integration, and public disclosure of the advertising material as agreed in each case.
- B. Omio reserves the right to suspend or remove an Affiliate, or a specific Affiliate Site from receiving the relevant Affiliate Partner Service in case of non-compliance with these Terms and Conditions, and if applicable, reverse, withhold or cancel its Affiliate Payment as specified in the previous section.
- C. Omio will be solely responsible for processing orders placed by an End-User via the Qualifying Links. Omio will be responsible for all End-user service inquiries. End-Users who visit Omio Sites via the Affiliate Sites or the Affiliate Channels are defined as customers of Omio and not as customers of the Affiliate.
- D. Omio has the right to audit the Affiliate Sites at any time in order to check whether they are in alignment with this Agreement. If established by Omio that an Affiliate Site does not comply with these Terms and Conditions, the Affiliate will be informed of the required changes. If the Affiliate does not make the requested changes without undue delay, Omio reserves the right to suspend this Affiliate Site or to terminate this Agreement.
- E. Omio has full discretion over providing Affiliate Partner Services and as such Omio can suspend the Affiliate’s access to the Affiliate Partner Services at any time and without notice if deemed reasonably necessary, as well as amend the scope of the Affiliate Partner Services.

#### **V. Remuneration and Payment**

- A. The Affiliate is eligible for compensation if an End-User concludes a Booking via Omio’s Qualifying



Link, whereby such Booking was directly generated by the Affiliate through approved marketing materials displayed on the Affiliate Sites.

- B. The Affiliate Payment will be determined as a percentage of the overall gross booking value, including service fees and taxes, on each Booking generated by the Affiliate on Omio Sites.
- C. Omio will use its click-through referral tracking systems to monitor the number of Bookings, and calculate the Affiliate Payment. Any portion of the End-User Clicks or Bookings that Omio (acting reasonably) identifies as Invalid Transactions will not count toward the Affiliate Payment. It is explicitly understood that transactions resulting in no revenue for Omio due to specific reasons (e.g., cancellations) will not be factored into the Affiliate Payment calculation.
- D. Omio shall provide the Affiliate with access to an online portal, outlining the Affiliate's activity and the applicable Affiliate Payment by Omio to the Affiliate in respect of the immediately preceding month.
- E. Booking attribution. The attribution of a Booking is based on a last click model, wherein referrals from clicks are permissible within a span of 30 days. Instances of multiple sales originating from the same IP address will be classified as duplicates and shall not be compensated, except in cases where the Affiliate presents sufficient evidence demonstrating that the multiple sales were conducted by an End-user complying with the terms of this Agreement.
- F. Voucher attribution. It is understood and agreed that any redemptions of vouchers distributed as part of an Affiliate's voucher campaign shall be attributed exclusively to that Affiliate. Accordingly, payment for any Bookings resulting from such redemptions shall be made solely to the Affiliate for whom the voucher campaign was created. This provision is intended to ensure that any benefits resulting from the Affiliate's promotional efforts are accurately and exclusively attributed to the Affiliate.
- G. Payment and invoicing details are regulated in the agreement with the Affiliate Network, if applicable, or in the individual agreement with Omio.

## **VI. Term, Termination**

- A. The Agreement between Omio and the Affiliate begins upon the acceptance of these Terms and Conditions by the Affiliate and is concluded for an indefinite period. On observing the notice period provided in the corresponding Affiliate Network Terms, the Parties are entitled at any time to terminate this Agreement. Omio may terminate this Agreement to present new Terms and Conditions to the Affiliate.
- B. The right of either Party to give extraordinary notice for cause remains unaffected. A cause shall be deemed if Affiliate culpably commits any breach of duty that is more than merely



insubstantial. In cases of fraudulent campaigns or a substantial breach of these Terms and Conditions, Omio can immediately terminate or pause the campaign without prior notice.

- C. Immediately upon termination of this Agreement: (i) all license rights granted herein shall terminate and (iii) the Affiliate shall immediately cease to advertise Omio or to use any advertising material received from or related to Omio and delete any data concerning the Affiliate Partner Services.
- D. Termination of this Agreement shall also terminate any outstanding Individual Agreements. However, all rights to payment, causes of action and any provisions which by their terms are intended to survive termination, will continue to be in effect.

## **VII. Data Protection**

- A. The Parties shall, to the extent necessary, at all times comply with all applicable data protection and privacy laws or regulations in force from time to time in the geographic areas where this Agreement is performed and enter into any additional agreements to comply with such regulations.

## **VIII. Warranty, Indemnification, Liability**

- A. Affiliate represents and warrants that:
  - 1. It is a natural person full of age and capable or a legal person acting in the exercise of its trade, business or profession qualified for the Omio Affiliate Program.
  - 2. The information provided in the application is true and accurate.
  - 3. It has sufficient right, title, and interest in and to the rights granted to us under this Agreement.
- B. Affiliate shall defend, indemnify and hold harmless Omio and their respective officers, directors, employees, corporate affiliates, subsidiaries, agents, and subcontractors against all claims, liabilities and expenses claimed or incurred as a result of any third party claim arising from any breach by Affiliate of its obligations under this Agreement.
- C. No warranty of any specific availability is given for Omio Site or services. In particular, downtimes may be caused by technical problems beyond Omio's control. Maintenance work may impair availability. Affiliates are not entitled to demand that Omio Site be provided or kept in a given condition.
- D. Omio is liable for slight negligence only in the event of breach of cardinal duties, i.e. duties enabling proper performance of this Agreement, which the Affiliate must at all times rely on being performed or which have to be performed in order to achieve the purpose of the contract. In cases of breach of cardinal duties, Omio's liability is limited to compensation for damage that is

typical and that Omio might have foreseen at the time when the contract was concluded. In all other respects, Omio's liability for slight or simple negligence is excluded. Omio's liability irrespective of fault in the fields of tenancy law or similar relationships involving usage is excluded in respect of errors already existing when the Agreement was concluded.

- E. Nothing in this Agreement shall limit a party claim arising from injury to life or body or health; claims based on fraudulent concealment; claims based on willful or grossly negligent conduct by a party or its statutory representatives, or serious fault in organizational terms; and claims under product liability law. Statutory regulations apply to these cases.

#### **IX. Non-Disclosure**

- A. Affiliate shall be under obligation to keep secret all information obtained from Omio, and to carefully protect this information against unauthorized access. Information provided by Omio may only be used by Affiliate for its intended purpose, and may not be passed on to third parties or used for Affiliate's own purposes.
- B. Upon request or at the latest upon the termination of this Agreement, Affiliate shall return or destroy free of charge all documents and information received from Omio.
- C. This non-disclosure obligation shall not apply to information that is in the public domain or becomes public knowledge without Affiliate's involvement, that was already known to Affiliate prior to its disclosure by Omio, or that Affiliate has worked out or obtained independently.
- D. Neither Party may issue a press release regarding the Agreement without the prior written consent of the other Party.

#### **X. Miscellaneous**

- A. All notices required to be served under or in connection with the Agreement must be in writing to [affiliates@omio.com](mailto:affiliates@omio.com).
- B. We reserve the right to update and change any part or all of this Agreement, including by replacing it in its entirety at our own discretion. All changes will be notified to you via the **Affiliate Network** and/or by email. Except as stated otherwise in the notification, this Agreement or elsewhere, all amended terms shall become effective three (3) days after they are notified to Affiliates. If you don't agree to the update, change or replacement, you can choose to immediately terminate this Agreement in accordance with section 6. No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.
- C. Affiliate is not authorized to assign or sub-license any rights or obligations under this Agreement in whole or in part to any other party, unless explicitly approved by Omio in writing (such consent not to be unreasonably withheld).

- D. Affiliate acknowledges and agrees that by clicking-through acceptance of these Terms and Conditions it is submitting an authorized electronic signature and entering into a legally binding contract.
- E. Affiliate's terms of business shall not apply.
- F. Email should be considered a valid method for any written notice regulated in this Agreement.
- G. If any provision of this Agreement or any variation thereof is determined to be invalid and unenforceable to any extent, that provision shall be severed from the body of other provisions and these provisions shall continue to the fullest extent permitted by law.
- H. These Terms and Conditions and the contractual relationship with Affiliate are subject to the laws of the Federal Republic of Germany. The terms of the UN Sales Convention (CISG) do not apply. Exclusive place of jurisdiction is Berlin, Germany.

Last Update: 28 August 2023

