



Affilisearch

ACCEPTABLE USE POLICY FOR DOWNLOADABLE SOFTWARE

The following Acceptable Use Policy ("AUP"), together with our Affiliate Terms and Conditions, which are expressly incorporated herein by reference, (the "Terms and Conditions" and together with the AUP, the "Agreement"), is the binding legal agreement between Affilisearch ("Company") and you ("You" or "Your"), the user of Company's website (the "Site"). You agree to use the Site, the Company's advertising network service ("Service") and any additional products and/or services offered by Company in the future only in accordance with the Agreement. Notwithstanding the foregoing, this AUP is not an exhaustive recitation of all rules, regulations, standards and legal requirements governing Your conduct: (i) as an Affiliate (as that term is defined herein below) of Company; and/or (ii) in connection with Your use of Downloadable Software under the Agreement. Company reserves the right to make changes to the Site, the Service and/or the terms and conditions of the Agreement at any time. The latest Agreement will be posted on the Site. Your continued use of the Site and/or Service after any such modification and posted notification thereof shall constitute Your consent to such modification. Therefore, You should regularly check the Site for any updates and/or changes. The Agreement applies to and governs Your relationship with the Company in all matters including, without limitation, as an Affiliate Partner of our Service ("Affiliate"). For purposes of the Agreement, "Affiliate" means the company or entity registering with Company as a Service Affiliate and, without limitation, any parent entities, owners, subsidiaries, Affiliates, predecessor or successor entities, and any agents, officers, directors or employees acting on behalf of same. If You do not agree to the terms and conditions contained within the Agreement in their entirety, You are not authorized to register as an Affiliate, use the Service and/or Site in any manner or form whatsoever. Any capitalized terms not defined herein shall have the same meaning as set forth in the Terms and Conditions.

Use of Downloadable Software

The Creative and Offers made available in connection with the Service Programs are generally intended for placement on the Affiliate Website and in the Affiliate E-mails, not in downloadable software programs, also called adware, pop-up/pop-under technologies, plug-ins, as well as other designations ("Downloadable Software"). However, where Company and the applicable Merchant each provides express written authorization, Company will allow such Programs to be included in/with Downloadable Software that meets with the requirements of all applicable federal and local rules, regulations, statutes, court orders and decrees, as well as the most stringent industry standards, as determined in the joint discretion of Company and the applicable Merchant. Prior to Affiliate's coupling any Program(s) with any Downloadable Software, Company and the applicable Merchant must first approve such Downloadable Software as evidenced by Company counter-signing that copy of the Company Downloadable Software Agreement ("DS Agreement") as previously signed and submitted by Affiliate covering the subject Downloadable Software; provided, however, that any such DS Agreement shall only permit use of the Downloadable Software with those designated Programs as specifically set forth in the DS Agreement. No other Downloadable Software shall be permitted, nor may Affiliate use the approved Downloadable Software in connection with any other Program without prior authorization. Company and/or the applicable Merchant may reject Your request to use Downloadable Software in connection with any Program and/or terminate Your use of authorized Downloadable Software at any time and for any reason, in the joint discretion of Company and the applicable Merchant. As referenced herein and throughout the Agreement, the terms "reasonable" and "unreasonable" shall be judgments made by Company and, where applicable, Merchant, and no other party. Company and, where applicable, Merchant, reserve the right, completely, jointly and exclusively, to establish the test for reasonability with regards to any conditions as set forth herein.

Without limitation, the conditions set forth herein shall apply equally to You, as well as to any of Your Affiliates, partners, distributors or other third parties with whom you do business while governed by the Agreement (collectively, "Affiliate Third Parties"). All Affiliate Third Parties must be approved by Company prior to their assisting You in connection with any Program governed by the Agreement. You are responsible for ensuring that any and all such Affiliate Third Parties agree, in writing, to terms and conditions no less restrictive than those contained herein, and You must submit all such written representations to Company prior to working with such Affiliate Third Parties in connection with any Program. Company reserves the right to reject Your request to work with any Affiliate Third Parties and may restrict Your right to use any previously approved Affiliate Third Parties at any time and for any reason. If at any time during the term of the Agreement You would like to contract with or otherwise utilise an Affiliate Third Party not previously authorized by Company, you must provide Company with prior notice, submit the applicable written representation that such Affiliate Third Party has agreed to the terms and conditions of the Agreement and await Company's express written approval of such Affiliate Third Party prior to proceeding.

All Downloadable Software must, at a minimum, satisfy the following conditions, as determined by Company and, where applicable, Merchant, in their joint and exclusive discretion:



1. Informed User Consent

Downloadable Software must not be installed on a user's computer without first obtaining the user's informed consent. Obtaining informed consent requires first giving users clear, concise, accurate information and notice about the material consequences of the programs that they are about to install in plain language including, without limitation: (i) a comprehensive license presented in full; (ii) the Downloadable Software vendor's legal name, mailing address, phone number and place of incorporation (if any); (iii) a statement of effect of installation including, without limitation, any changes made to computer settings such as home page, connection provider, proxy, bookmarks, etc.; (iv) a statement of the information tracked, transmitted and/or collected, if any; (v) full-size examples of advertisements that they may receive as a result of downloading the Downloadable Software, if any; and (vi) disclosures of the frequency of advertisement display, as applicable. Such information and notice provided to the user must: (i) appear in a conspicuous manner, clearly distinguished from other on-screen text; (ii) remain on screen until the user grants or denies consent; and (iii) provide an option for providing additional explanation about the type of information to be collected, if any, and the purpose of such collection. The plain language used in the notice shall not be indirect or euphemistic. For example, without limitation: (i) if a program will show pop-up advertisements, proper notice and informed consent generally require use of the phrase "This program will show pop-up advertisements"; (ii) if a program will gather and transmit information about the user, the notice should read "This program will collect and transmit information about you"; or (iii) if the program uses information collected to target advertising to the user, the notice should read, "This program will collect information about Web pages that you access and will use that information to display advertising on your computer." Obtaining informed consent also requires a clear, unambiguous and affirmative manifestation of consent (for example: requiring a user to press an appropriate affirmative button such as "I agree" and not merely pressing "Next" or accepting a pre-checked box). There must be a separate manifestation of consent for each item of Downloadable Software loaded on to the user's computer, and Affiliate is prohibited from downloading a bundle of programs after receiving only one indication of consent. Without limitation, an ActiveX installation prompt (with nothing more) is not deemed to have obtained informed consent.

2. Control Over the Distribution Process

The Downloadable Software installation directions and procedures must comply with the requirements set forth in this AUP. You, as an Affiliate, must require that all distributors of the applicable Downloadable Software comply with these rules. One method of establishing and maintaining such distributor compliance is to mandate in Your agreements with distributors that they comply with the provisions set forth in this AUP and that each such distributor has established and maintained a record of effective AUP compliance, yielding no substantial violations related to the applicable Downloadable Software for a period of at least six (6) months or more.

3. Consistency of the Offer

Ongoing and continuing use of Downloadable Software must not surprise users with notices, disclosures or behaviours inconsistent with the applicable Downloadable Software's initial solicitation, disclosures and notices. For example, if the applicable Downloadable Software's initial solicitation described the underlying software program as offering "free smileys," the applicable program cannot later add the requirement that users also accept pop-up advertisements.

4. Appropriateness of the Offer

Downloadable Software must not solicit users via improper channels. Without limitation, solicitation on websites that are substantially intended for viewing by children is considered inappropriate and prohibited by Company and this AUP. Children's websites may be identified via website language and/or formatting, common sense and/or factors established in UK Trade Commission regulations. Company expressly reserves the right to make the final determination as to the character and intended audience of any and all websites. Without limitation, solicitations substantially catering to children (e.g., cartoons, dolls, child-oriented games, etc.) are not appropriate. Without limitation, solicitations are not appropriate at any website not satisfying the requirements of Section 2 of the Terms and Conditions.

5. Fair Value to Users

Downloadable Software must offer users a genuine, substantial benefit in exchange for the consideration represented by accepting the underlying advertisements (the "Benefit"). If the Downloadable Software merely shows advertisements, without offering anything substantial in return (no Benefit), it is unlikely that the underlying software program offers users a fair value. If the underlying software program's claimed Benefit is otherwise generally available elsewhere at no cost, the program is unlikely to offer users a fair value. If the underlying software program's claimed Benefit is a mere trinket or triviality, the program is unlikely to offer users a fair value. If a program's advertisements appear whenever a user uses his computer, or whenever a user uses his web browser, even if the user never makes use of the program's Benefit, then the program may not offer users a fair value. Company reserves the right to determine, in its sole discretion, if the Downloadable Software's claimed Benefit represents a fair value to users.



6. Transparency in Operation

Users must easily be able to identify and understand the nature of the Downloadable Software's effects both prior to, and after, installation. If the Downloadable Software displays advertisements outside of its program window, each such advertisement must be labelled with the Downloadable Software program name. Each such advertisement must include a link, button or other mechanism whereby a user can learn more about: (i) the Downloadable Software presenting said advertisement; (ii) the specific manner in which the Downloadable Software was installed (including what offer is associated with that Downloadable Software); (iii) the specific date and time that the Downloadable Software was installed; and (iv) how the Downloadable Software can be removed (including a removal feature requiring not more than two (2) additional clicks). Without limiting the generality of the foregoing, the Downloadable Software and associated information, disclosures and notice, must not: (i) falsely claim that the Downloadable Software will be disabled by the user's actions; (ii) remove or disable security software; or (iii) take control of the computer (by accruing dial-up charges, or by opening a series of advertisements that can only be stopped by turning off the computer).

7. Advertising Frequency and Intrusiveness

Downloadable Software must not show advertisements that are unreasonably frequent or unreasonably intrusive. Company reserves the right to determine, in its sole discretion, if the Downloadable Software's advertising frequency and/or intrusiveness is reasonable.

8. Advertising Placement

Each advertisement shown via the Downloadable Software must appear entirely on-screen, with no portion of its body or title bar off-screen. Each advertisement shown via the Downloadable Software must be reasonable in size, and may not unreasonably cover (or reduce the visible area of) any underlying web page that a user had requested. An advertisement shown via the Downloadable Software may not wholly replace, or redirect a user away from, the page or website that the user had requested. Advertisements triggered in response to the user's attempt to access a specific web address or search of a trademark are strictly prohibited absent the express consent of the applicable website and/or trademark owner, as applicable.

9. Advertising Dismissal

Each advertisement shown via the Downloadable Software must be closable by a user using ordinary operating system functions. Without limitation, on standard Windows operating PCs, freestanding advertising windows ("pop-up" and "pop-under") must be closable by clicking the upper-right hand corner "X," the upper-left hand corner "Control Menu," the Alt-F4 key, right-clicking on the applicable advertisement's title bar (and choosing "Close") and/or right clicking a Taskbar entry (and choosing "Close"). This ability to close such advertisements must be accompanied by an option to facilitate the removal of the Downloadable Software itself at each instance of advertisement presentation.

10. Legitimate Advertising Formats.

Downloadable Software must not display advertising in illegitimate formats, outside of ordinary commercial norms. Without limitation, each of the following advertising formats requires special explicit user consent, which shall consist of a specific question to the user, clearly articulating the specific action to be taken and which must allow the user to grant or deny consent without any collateral consequences: (i) placing icons on a user's desktop or "Start Menu" (or similar location); (ii) directly routing the user to specific websites; and/or (iii) adding entries to a user's "Favourites" menu (or similar location). Downloadable Software may not be used to attack another program, to record a user's passwords, or to send bulk e-mail to other users.

11. Privacy Policy

Downloadable Software must include an associated privacy policy that meets the test of reasonable commercial best practices applicable to privacy policies. Downloadable Software must adhere to its applicable privacy policy, in both letter and in spirit, in all respects and with no exceptions. The subject privacy policy must be available for viewing prior to the Downloadable Software program's installation procedure and thereafter, as well as from such program vendor's website.

12. User information and support.

The maker of the applicable Downloadable Software must maintain a website that provides information about such program, its general purposes and effects and how it can be removed from a user's computer. The website must provide, at a minimum, the vendor's legal name, mailing address, phone number and place of incorporation (if any). The website must include an adequate and reasonable mechanism for users to obtain technical support for issues such as troubleshooting and removing the Downloadable Software.

13. Removal.

A user must be able to remove Downloadable Software via the standard function within the user's operating system (e.g. Control Panel – Add or Remove Programs). A removal procedure must be free of cost and may not



unreasonably hinder removal, e.g. via extended procedures, convoluted language or confusing user interface elements or placement.

14. Appropriate Naming.

Downloadable Software must use a consistent, single, clear name. That name must be shown in the Downloadable Software program's initial advertising (i.e. to recruit users), in its installation notice and consent procedures, on any advertising and in its uninstall procedure. A Downloadable Software program may not use multiple names within the scope of its relationship with a single user. A Downloadable Software program may not change its name unreasonably frequently (including, without limitation, more than once per twelve-month period). The company responsible for producing and/or distributing the applicable Downloadable Software may not use an unreasonably high number of product names or brand names in its dealings with multiple users. The entity responsible for producing and/or distributing the applicable Downloadable Software may not use an unreasonably high number of product names or brand names to obfuscate, hide or otherwise confuse its identity. Program names, and company names, may not be substantially misleading, confusing, duplicative, generic or hard to locate via a standard search (e.g. "Windows Plugin," "Search Toolbar," "Click Yes").

15. Appropriate Advertisements.

Company strictly forbids the display of sexually-explicit materials via the Downloadable Software. No Downloadable Software may display content that fails to satisfy all of the requirements of Section 2 of the Terms and Conditions.

16. Merchant Knowledge and Consent.

The applicable Merchants' Creative and/or Offers should not appear in Downloadable Software except when such Merchants specifically approve of those placements. Company Creative and/or Offers may not be displayed within third-party traffic purchases from Downloadable Software (whether in the form of pop-ups, pop-unders or via any other media).

17. Fair Value to Merchants.

Downloadable Software must offer Merchants a bona fide value in exchange for Merchant payments. Downloadable Software must generate bona fide Events on behalf of Merchants. Without limitation, where the applicable Event is the generation of a lead, the Event shall not be considered a bona fide Event if it is associated with a user: (i) already at a Merchant website; (ii) already at the website of an Affiliate of a Merchant; or (iii) actively searching for a Merchant website.

18. Fair Treatment of Other Affiliates

Downloadable Software must not reduce payments paid to other Affiliates of Company. Without limitation, Downloadable Software must not interfere with a transaction in which another Affiliate is to receive payment.

19. Keeping Good Company

Downloadable Software must not come bundled with programs that violate the terms and conditions of the Agreement.

20. A Clear History

The Downloadable Software, and such Downloadable Software's vendor, must each have a strong track record of compliance with the terms and conditions of this AUP, as well as applicable laws, rules, regulations and industry standards during, at a minimum, the course of the twelve (12) months preceding the submission, by Affiliate, of a DS Agreement. Without limitation, even non-trivial violations within the preceding twelve (12) months will generally render Downloadable Software ineligible for Program consideration. For certain Downloadable Software and certain types of violations, prior violations may render the Downloadable Software ineligible for Program consideration even if the violations occurred more than twelve (12) months in the past, as determined in the sole discretion of Company.

21. Truthfulness

The applicable Downloadable Software's vendor must be clear, complete and forthcoming in all statements to Company, its Merchants and end users. Company shall determine, upon Company's initial investigation of the applicable Downloadable Software's installation procedure and operation, whether the applicable Downloadable Software's vendor is in compliance with these requirements, and any other requirement set forth in the Agreement. If the Downloadable Software's operation changes (or is expected to change) in any substantial way, including in any way that could affect compliance with any of these AUP rules, the Downloadable Software's vendor must notify Company at the earliest possible opportunity. If the Downloadable Software's vendor learns of any breach of these AUP rules, the vendor must notify Company immediately.