

GENERAL TERMS AND CONDITIONS

eyepin eMarketing Software is a trademark of Crosslinks EDV Dienstleistungs GmbH, incorporated in Vienna/Austria, hereinafter named "eyepin" or "eyepin eMarketing Software". eyepin reserves the right to make changes to its site, disclaimers, terms and conditions at any time without informing you. BEFORE YOU USE THE SOFTWARE or ASP-VERSION, PLEASE READ THIS GENERAL TERMS AND CONDITIONS.

1. Software Licenses

1.1. eyepin grants you a non-exclusive license to use this commercial version of its software.

1.2. The user acknowledges, that eyepin server licenses are constantly reporting statistical data to the eyepin reporting center via internet. Therefore the server license needs to run in an environment where internet access is available. If the server license is not able to report to the eyepin reporting center during a 10-day period, the server license will be deactivated.

1.3. eyepin makes no representations about the suitability of this software for any purpose. The software is provided 'as is' without express or implied warranties, including warranties of merchantability and fitness for a particular purpose or non-infringement.

1.4. eyepin shall not be liable for any damages suffered by any user of the software. eyepin has no obligation to support this software or to issue updates to this software.

1.5. This is a comprehensive limitation of liability that applies to all damages of any kind, including (without limitation) compensatory, direct, indirect or consequential damages, loss of data, income or profit, loss of or damage to property and third party claims, save that nothing shall exclude or restrict liability for death or personal injury resulting from the negligence of eyepin eMarketing Software nor any of its directors, employees or suppliers.

2. eyepin ASP Services

2.1. eyepin provides e-mail marketing tool, storage and support to the users. Users can create and send email campaigns using the application to distribute content provided by the user to a list of email addresses also supplied by the user. The user acknowledges that eyepin does not create or publish any content for the user. The user further recognizes that eyepin does not rent or sell email lists. eyepin retains its right to cancel and delete an account if the user violates any of the policies explicitly published herein. eyepin disclaims all copyright and other rights in such content and all responsibility for them.

2.2. eyepin eMarketing Software will take reasonable efforts to ensure the ASP Service offered to access 24 hours a day, 7 days a week although no guarantee is made of uninterrupted access. Access may be interrupted for scheduled and unscheduled maintenance purposes plus systems outages.

2.3. You are responsible for obtaining access to eyepin account by paying Monthly fees as specified or agreed and that access to the internet may involve third party (Internet Service Provider). In addition, you must provide and are responsible for all equipment necessary to access the service.

2.4. Modification to the Services

eyepin reserves the right to modify or discontinue the Services, temporarily or permanently, with or without notice to the user and is not obligated to support or update the Services.

2.5. Member Account, Password, and Security

eyepin requires you to open an account by providing us with current, complete and accurate information as prompted by the applicable registration form. You also will get username and password. You are entirely responsible for maintaining the confidentiality of your password and account. Furthermore, you are entirely responsible for any and all activities that occur during the use of services. You agree to notify eyepin to report any unauthorized use of your account or breach of security immediately. eyepin will not be liable for any loss that you may incur as a result of someone else using your password or account, either with or without your knowledge. However, you

could be held liable for losses incurred by eyepin or its Partners due to misuse of your account or password. You may not use anyone else's account at any time, without the permission of the account holder.

2.6. Use and Storage

eyepin may store user information, content, contact lists, emails, campaign activity statistics, reports and other information in its databases for the User. However, eyepin has no responsibility or liability for the deletion or failure to store any messages, content or other information maintained or transmitted through the Services. At any time, eyepin may decide that User information can no longer be stored by it or deem User information to be inappropriate and remove it from its databases with or without notice to the User.

2.7. Charges for Services

eyepin services are charged according to the monthly price plan selected and agreed by the User. Pricing may vary at any time based on changes to fee schedules. All prices are indicated in US dollars or in Euro. The User is responsible for reviewing the pricing from time to time and keeping himself aware of the fees charged by eyepin.

2.8. Refund

Cancellation of service will not constitute a refund of fees paid prior to cancellation. When signing up to use the application, end-user agrees that he is using the application "AS IS" and cannot request a refund due to any reason other than the service that has been unavailable for an extended period of time. We offer this product as a 30-day free 'test-drive' for you to determine if it suits your needs and meets your requirements. Lack of due diligence on the consumers' behalf will not be grounds for a refund. If consumer decides to subscribe without testing the applications' functionalities and uses, prior to signing up, no refund will be issued. Refunds will only be issued in the event the service is completely unavailable for an extended period of time, or a function of the service is unavailable. We will prorate the use and issue a partial refund based upon remainder of the consumers' subscription.

3. Email, Image Hosting & Permission Practices

3.1. eyepin may not be used for the sending of unsolicited email (sometimes called "spam").

3.2. eyepin may only be used for lawful purposes.

3.3. Your use of the Service is subject to the Prohibited Content and Commerce Statement.

3.4. You agree you will not access or otherwise use third party mailing lists in connection with preparing or distributing unsolicited email.

3.5. Every email message sent in connection with the Services must contain an "unsubscribe" link that allows subscribers to remove themselves from your mailing list.

3.6. You will adopt and maintain the Email Privacy Policy, which may be modified by eyepin from time to time.

3.7. eyepin will not use your customer list/subscriber list or any other customer information for any other purposes than those intended with the Service.

3.8. You are responsible for ensuring the content in your email Campaigns does not contravene any relevant law. You are held liable for any claims, suits, damages or any other disputes or actions which arise in connection with your website. You must ensure the accuracy, truthfulness, appropriateness & decency of any content in your newsletters.

3.9. You agree to import, access or otherwise use only

permission-based lists (note: purchased lists may not be used; please contact eyepin if you have questions).

3.10. You are responsible for monitoring, correcting, processing unsubscribe requests within 10 days, and updating the email addresses to which messages are sent through your eyepin account.

3.11. Emails that you send through the Service may generate abuse complaints from recipients. As a matter of privacy, eyepin cannot share with you the email addresses of those who complain about your email campaign. You are responsible for ensuring that your email campaigns do not generate a number of abuse complaints in excess of industry norms. eyepin, in its sole discretion, shall determine whether your level of abuse complaints is within industry norms, and its determination shall be final, binding and conclusive for all purposes under this Agreement.

3.12. Images hosted by eyepin may only be used in connection with the Service and for no other purpose whatsoever.

3.13. eyepin, at its own discretion, may immediately disable your access without refund to the Services if eyepin believes in its sole discretion that you have violated any of the email and permission practices listed above, or the eyepin Prohibited Content and Commerce Policy.

3.14. eyepin will not use your customer list or any other customer information for any other purposes than those intended with the service. Your customer information will not be shared with any other parties unless required by law.

3.15. You will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of, or found at or through the Services or any software, documentation, or data related to the Services ("Software"); remove any proprietary notices or labels from the Services or any Software, modify, translate, or create derivative works based on the Services or any Software; or copy, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or any Software.

3.16. Unless you are an authorized eyepin Reseller, you may not display, copy, reproduce, or distribute the Software, any component thereof, any documentation provided in connection with the Services or the Software, or any content, including but not limited to newsletters, distributed to you by eyepin in connection with the Services. Violation of these restrictions may result in the termination of this Agreement.

3.17. The Services shall be used for your internal business (which includes civic or charitable) purposes only, and you shall not use the Services or any Software for timesharing or service-bureau purposes or otherwise for the benefit of a third party. If you are using the Services in any country in the European Community, the prohibition against modifying, translating, reverse engineering, decompiling, disassembling or creating derivative works based on the Services or the Software does not affect your rights under any legislation implementing the E.C. Council Directive on the Legal Protection of Computer Programs.

3.18. For every email message sent in connection with the Services, you acknowledge and agree that the Services may automatically add an identifying footer stating "Powered by eyepin" or a similar message. You agree to cooperate with and provide reasonable assistance to eyepin in promoting and advertising the Services.

3.19. In using the varied features of the Services, you may provide information (such as name, contact information, or other registration information) to eyepin. eyepin may use this information and any technical information about your use of the Services to tailor its presentations to you, facilitate your movement through the Service, or communicate separately with you. If you licensed the Services as a result of solicitation by a Partner of eyepin, eyepin may share your information with the Partner and the Partner may share information with eyepin. eyepin will not provide information to companies you have not authorized for that purpose unless required by law or if you are terminated from eyepin due to unsolicited commercial email being sent from your eyepin account.

3.20. If you receive special discounts through a Partner, those discounts may not be available if you cease to continue to be a customer of the Partner, in which case eyepin's standard rates will apply. The Partner may notify eyepin of any change in your status.

3.21. eyepin is allowed to list your company on its customer references list and for best practice examples.

4. Termination

4.1. eyepin may terminate this Agreement or the Services, disable your account or put your account on inactive status, in each case at any time with or without cause, and with or without notice. eyepin shall have no liability to you or any third party because of such termination or action.

4.2. eyepin will delete any of your archived data within 30 days after the date of termination. After termination, you are required to process all unsubscribe requests within 30 days of your last email campaign. eyepin will provide upon request the list of unsubscribe requests from your last campaign. All sections of this Agreement that by their nature should survive termination will survive termination, including, without limitation, ownership, warranty disclaimers and limitations of liability.

4.3. If your account is classified (at eyepin's sole discretion) as inactive for over 120 days, eyepin has the right to permanently remove your subscriber data. eyepin will attempt to contact you via email prior to taking any permanent removal actions.

5. Warranty Disclaimer; Remedies & LIABILITY DISCLAIMER

5.1. THE INFORMATION, SERVICES, PRODUCTS AND MATERIALS PUBLISHED ON THE EYEPIN WEB SITE AND ALL SOFTWARE AND APPLICATIONS, INCLUDING WITHOUT LIMITATION, TEXT, GRAPHICS AND LINKS ARE PROVIDED ON AN "AS IS" BASIS. EYEPIN MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THIS WEB SITE OR THE INFORMATION, CONTENTS, MATERIALS, OR PRODUCTS INCLUDED ON THIS SITE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

5.2. EYEPIN DOES NOT WARRANT THAT THE WEB SITE OR ANY SOFTWARE OR ASP-SERVICE WILL BE ERROR FREE, OR WILL MEET ANY PARTICULAR CRITERIA OF ACCURACY, COMPLETENESS OR RELIABILITY OF INFORMATION, PERFORMANCE OR QUALITY.

5.3. WHILST EYEPIN EMARKETING SOFTWARE HAS TAKEN REASONABLE MEASURES TO ENSURE THE INTEGRITY OF IT'S WEB SITE, ITS CONTENTS AND THE OFFERED SERVICES AND SOFTWARE, NO WARRANTY, WHETHER EXPRESS OR IMPLIED, IS GIVEN THAT ANY FILES, DOWNLOADS OR APPLICATIONS AVAILABLE VIA THIS WEB SITE ARE FREE OF VIRUSES, TROJANS, BOMBS, TIME-LOCKS OR ANY OTHER DATE OR CODE WHICH HAS THE ABILITY TO CORRUPT OR AFFECT THE OPERATION OF YOUR SYSTEM.

5.4. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NONPERFORMANCE OF THE SERVICES SHALL BE FOR EYEPIN TO USE COMMERCIALY REASONABLE EFFORTS TO ADJUST OR REPAIR THE SERVICES.

6. TRADEMARKS

6.1. The trade marks, service marks, logos and other proprietary names and identifiers which are owned by eyepin eMarketing Software may not be used in connection with any product or service that does not belong to eyepin eMarketing Software. Furthermore, nothing contained on this web site should be construed as granting a license or right to use any of the trade marks without the express, written permission of eyepin eMarketing Software.

7. VIOLATION AND WAIVER

7.1. Should you violate these Terms and Conditions or any other rights of eyepin eMarketing Software, eyepin eMarketing Software reserves the right to pursue any and all legal and equitable remedies against you. If eyepin should fail to enforce any right or provision in these Terms and Conditions, you agree that this failure does not constitute a waiver of such right or provision or of any other rights or provisions in these Terms and Conditions.