

General Terms and Conditions for Consulting Services

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Scope

These General Terms and Conditions for Consulting Services are between Searchmetrics GmbH (hereinafter referred to as "Searchmetrics"), Greifswalder Straße 212, 10405 Berlin, (District Court of Berlin-Charlottenburg HRB 111340 B) and the Customer, to the extent that no product- or service-specific conditions apply.

These Terms and Conditions shall only apply to businesses within the meaning of § 14 German Civil Code (BGB). A business is a natural or legal entity or legal partnership.

These Terms and Conditions apply exclusively. Any deviating, conflicting or additional terms and conditions of the Customer do not apply even if Searchmetrics provides services without expressly disputing such Customer terms and conditions. Additional terms and conditions of Customer shall only then become an integral part if Searchmetrics expressly consented in writing to their validity. The Customer accepts these Terms and Conditions by placing the order. These Terms and Conditions also apply to future business relationships, whether or not this is expressly restated by the parties.

If any provision of the offer conflicts with the provisions of these Terms and Conditions, the provisions contained in the offer will govern to the extent of the conflict.

§ 1 Conclusion of the contract

- (1) Searchmetrics submits a written offer to Customer to conclude a contract.
- (2) This offer requires signature for acceptance by the Customer.
- (3) The contract between the Customer and Searchmetrics will be concluded once the signed offer has been received and accepted by Searchmetrics.

§ 2 Description of Consulting Services

- (1) Searchmetrics provides consulting services, the details of which, in particular the scope of coverage, are detailed in these Terms and Conditions and the offer
- (2) Searchmetrics performs the services in a professional manner and consistent with applicable industry standards.

§ 3 Fees and payment terms

- (1) The fees and payment terms are specified in the applicable offer.
- (2) All fees are exclusive of VAT unless otherwise specified in the offer.
- (3) Unless otherwise agreed, all fees are payable in advance without deductions plus VAT, if applicable.

- (4) If the parties have not agreed to a specific remuneration, the fees for the Searchmetrics services provided will be calculated at a daily rate in accordance with the Searchmetrics price list in force at the time of the contract.
- (5) Any specific requirements regarding invoices must be provided to Searchmetrics at the time of signature of the offer or immediately thereafter.

In case of late payment Searchmetrics is entitled to:

- (a) receive interest at the statutory rate (§ 288 BGB) for the period of the payment delay
- (b) suspend the further provision of services. Searchmetrics' claims to the fees accrued remain unaffected. Any fees not paid when due will bear interest at the statutory rate (§ 288 BGB) during the period of payment delay.
- (c) terminate the contract after notice has been given providing a period of at least two weeks to cure the non-payment. In the event of termination, Searchmetrics' claims to the fees accrued and claims for compensation remain unaffected. Any fees not paid when due will bear an interest at statutory rate (§ 288 BGB) during the period of payment delay.

§ 4 Grant of rights

- (1) Searchmetrics is the exclusive owner of all right, title and interest in connection with services, including all copyrights, trademarks, patent rights, trade secrets and other intellectual property rights in particular to the software and the associated databases or other material, such as analysis, development, documentation and reports, as well as on preparation material.
- (2) Searchmetrics grants to the Customer a limited, perpetual, global (except in the United States and Canada), non-transferable, non-sublicensable right to use the consulting results provided by Searchmetrics for Customer's internal business purposes. The access to the Searchmetrics software ("Searchmetrics Suite") is expressly excluded from this license.
- (3) Customer authorises Searchmetrics to use Customer's name for customer reference and marketing, advertising and promotional purposes

§ 5 Customer obligations

- (1) Customer agrees to cooperate as reasonably required for Searchmetrics to provide the services under this contract. This includes in particular the provision of network, Internet and telecommunications connections, hardware and software and adequately trained personnel.
- (2) Customer agrees to provide to Searchmetrics information related to the services in a complete, accurate and timely manner.
- (3) Customer shall also timely inform Searchmetrics, even without specific request, regarding circumstances which may be relevant to the consulting services.
- (4) In case of Project Deliverables, any objections or requests for changes shall be communicated promptly in writing. If the Customer does not respond within 7 business days, the Project Deliverables shall be deemed accepted.

§ 6 Data Protection

In connection with collection, processing and utilisation of personal data Searchmetrics ensures to respect the provisions of the General Data Protection Regulation (GDPR) and other corresponding data protection regulations. Registration data of Customer are subject to the data protection regulations and will only be used as is required for providing contractual services and invoicing processes. Transmission of data to a third party will only take place in the event of sub-processing and after prior notification of Customer

§ 7 Confidentiality

- (1) The parties acknowledge that, in the course of performing their obligations under this Agreement, each may receive Confidential Information. Each party covenants and agrees that it will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except to exercise rights under this Agreement, or as such disclosure may be required by law or governmental regulation, subject to the Receiving Party providing to the Disclosing Party written notice to allow the Disclosing Party to seek a protective order or otherwise prevent the disclosure. If requested by the Disclosing Party, Receiving Party shall return or destroy the Disclosing Party's Confidential Information upon termination of contract.
- (2) "**Confidential Information**" means information or data that one party (the "Disclosing Party") provides to the other party ("Receiving Party") during the term of this Agreement that is identified in writing at the time of disclosure as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes, but is not limited to any information, technical data or know-how which relates to research, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, engineering, marketing, finances or trade secrets. Confidential Information also includes Confidential Information of a third party, which is in the possession of one of the parties hereto and is disclosed to the other party hereto in confidence hereunder. Confidential Information does not include information, technical data or know-how which was already in the possession of the receiving party prior to disclosure, is or becomes part of the public knowledge through no act or omission by receiving party, is disclosed to receiving party by a third party who is not subject to confidentiality restrictions, is approved for release by the disclosing party or is independently developed by the receiving party without the use of any Confidential Information of the other party.

§ 8 Intellectual Property Rights

Searchmetrics is the sole and exclusive owner of all Intellectual Property Rights including but not limited to copyrights, patent rights, trade secrets, trademarks and other intellectual property rights, which are developed and provided for according to this contract including source codes, database, hardware or other material like analyses, developments, documentations and reports, as well as material for preparation.

§ 9 Guarantees and liability

- (1) Unless otherwise stipulated below, Searchmetrics is liable in accordance with applicable laws.
- (2) Searchmetrics' liability is limited to damages arising out of an intentional breach of a material contractual obligation or due to gross negligence. Nothing in this section is intended to limit or exclude Searchmetrics' liability for death or bodily injury of Customer caused by Searchmetrics' negligence.
- (3) If Searchmetrics breaches a major contractual obligation due to ordinary negligence, its liability is further limited to the foreseeable damages which are typical for this type of contract.
- (4) The above limitations to liability do not relate to the Customer's claims under product liability. The provisions of the German Product Liability Act remain unaffected.
- (5) Searchmetrics is not liable for Customer's loss of profits or other financial damages.
- (6) If the contractual liability of Searchmetrics is excluded or limited, the same shall apply to the personal liability of Searchmetrics employees, representatives and agents.
- (7) Claims for damages expire one (1) year after the Customer has become aware, or should have become aware without gross negligence, of the circumstances on which the claim is based. This does not apply to claims under the German Product Liability Act.
- (8) Strict liability pursuant to § 536a (1) BGB (German Civil Code) is hereby expressly excluded.
- (9) Searchmetrics is not liable for the accuracy of data provided by a third party.
- (10) Searchmetrics is not liable for delays that arise through incomplete information by the Customer that are necessary to provide the services.

§ 10 Contract term and termination

- (1) Unless agreed otherwise in the offer, the contract term is 12 months starting on the date indicated in the offer.
- (2) The right to terminate for good cause remains unaffected. For the avoidance of doubt, good cause includes Customer's failure to make due payments notwithstanding Searchmetrics' written notice of late payment.
- (3) Notice of termination must be in writing (email is acceptable).

§ 11 Retention

Customer is entitled to exercise a right of retention only to the extent that his counterclaim is based on the same contractual relationship.

§ 12 Amendments

- (1) Searchmetrics is entitled to amend the Terms and Conditions at any time. Searchmetrics will notify Customer in writing of any changes. If Customer does not object to the changes within six weeks after receipt of the notification, the amendments are deemed accepted. The amendments will become effective if Searchmetrics has expressly notified Customer of this effect in the notification of changes.
- (2) If Customer objects to the amendments, the contract will continue to operate under the previous conditions.
- (3) Amendments according to Clause (1) can only be made if the amendment does not change any material contractual obligation and the balance between performance and counter-performance will not shift to a substantial disadvantage of Customer.

§ 13 Final provisions

- (1) The contract is governed by and will be interpreted in accordance with the law of the Federal Republic of Germany. The parties to this Agreement expressly exclude German private international law and the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (2) The place of jurisdiction for any disputes arising from the contract, including tortious claims, is Berlin.
- (3) The place of performance is Berlin.
- (4) Should any provision of this agreement be or become wholly or partially illegal, invalid or unenforceable, this shall not affect the validity of the remainder of the Terms and Conditions. The parties undertake to agree to replace the invalid provision with an appropriate provision which, as far as is legally possible, comes closest to what the parties intended to agree.