

TRUST
FEEL
SHARE
GTC

Executive Board Albert Hans Haeckl **Supervisory Board** Frank Zimmermann (Chairman) . Bernd R. Sommer (Asst. Chairman) . Hermann Speck
Management Board Michael Bayer . Dominik Müller . Stefan Pröbß . Robert Puchalla
Value Added Tax DE 213576759 **Registry Court** Nürnberg HRB 20918

Bank Sparkasse Nürnberg SSKNDE77 . DE95760501010005033303
Communication +499112004850 . arsmedium.com

arsmedium Aktiengesellschaft Bucher Straße 103 . 90419 Nürnberg . Germany

GENERAL TERMS AND CONDITIONS 1 APRIL 2021

1 December 2022 | Page 1.14 | martina.mueller@arsmedium.com
General Terms and Conditions 1 April 2021 | arsmedium group

The business transactions between the companies of the arsmedium group,
arsmedium Aktiengesellschaft, arsmedium eins GmbH, arsmedium zwei GmbH and arsmedium drei GmbH,
at all their locations
(arsmedium)

and

the commissioning company,
of the commissioning institution,
of the commissioning person,
as principal
(Customer)

will take place under application of and on the basis of the following General Terms and Conditions of arsmedium,
insofar as no deviating provisions have been agreed in individual contracts.

Conflicting or derogating General Terms and Conditions of the Customer will not apply
and arsmedium expressly objects to the General Terms and Conditions of the Customer.

These GTC are on 14 pages and contain paragraphs 1 to 24.

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BASIS

All contracts with customers that do not act and/or trade as private individuals and are thus entrepreneurial or meet the criteria for the status of merchant within the meaning of the Commercial Code are based on the following GTCs; they are thus the subject of the contracts concluded with the customers.

The same applies to all agreements, offers and services/deliveries by arsmidium to the Customer.

The Customer has been adequately informed about the GTC and where the GTC can be viewed, so that the Customer could also become aware of the content of arsmidium's GTC before concluding the contracts. The GTC of arsmidium are additionally available on the arsmidium website and can be viewed there at any time > [arsmedium.com/gtc](https://www.arsmedium.com/gtc).

Insofar as no deviating agreements are contained in contracts, order placements and order confirmations concluded between arsmidium and the Customer, arsmidium's GTC will apply to all contracts.

In addition, the Customer declares that it waives the application of its own general terms and conditions and accepts the general terms and conditions of arsmidium. It is further agreed that the GTC of the Customer will not apply even if the Customer makes its GTC available to arsmidium in the course of the contractual negotiations and the conclusion of the contract; unless arsmidium acknowledges the applicability of the Customer's GTC to the Customer in writing.

If arsmidium does not respond to the Customer's GTC sent to it and/or if arsmidium remains silent on the matter, the GTC sent to it by the Customer will be deemed not to have been agreed and will not become the subject of the contractual relationship between the Customer and arsmidium. In this case, too, arsmidium's GTC will apply exclusively.

ORDER

The Customer is the party who has commissioned the execution of an order in text form, even if, after the order has been placed/confirmed and executed, the invoice is to be issued to a third party on the Customer's instructions so that the third party pays the invoice/remuneration on behalf of the Customer on account of performance.

Offers are non-binding until the order placed on their basis has been confirmed by arsmidium in text form. Oral and telephone agreements only become the subject of contractual agreements and arrangements on confirmation in text form by arsmidium and exclusively to the extent of the content of the confirmation fixed in text form.

Alternatively valid are minutes of meetings which are prepared by arsmidium and forwarded to the Customer for its information, unless the Customer objects to them in text form within two days of receipt. Based on this, the data/information or associated documents on which the offer is based are not exclusively authoritative, but are merely indicative, unless they have been expressly recognised and/or marked as binding on the part of arsmidium.

Offers by arsmidium are subject to confirmation. They are valid for 30 days from the date of creation.

Strategies, concepts, designs, texts, calculations/cost estimates and other rights, in particular all intellectual property rights (copyrights, trademark rights, patent rights and the like), which have been produced and/or created by arsmidium and/or which are the sole property of arsmidium and/or to which arsmidium is entitled to the licensing rights, may not be made accessible to any third party by the Customer and/or used and/or processed and/or redesigned and/or changed unless the Customer is granted a corresponding right by arsmidium in writing within the framework of the contractual agreements.

1

Reference

Information

Application

Recognition

2

Customer

Offer

Validity

Procurement rights

DUTY TO COOPERATE

3

The Customer undertakes to support arsmidium in the activities required for the proper provision of services without being asked to do so.

Commitment

The Customer will appoint a contact who will be available to arsmidium's employees as a clear point of contact during the execution of the order. The contact must be authorised to perform all actions on behalf of the Customer which are necessary for the execution of the order. The contact is required to initiate everything necessary for the proper execution of the order without delay in each case. The Customer will provide arsmidium with access to the information necessary for the activity at all times and furnish arsmidium with all necessary information in good time.

Contact

arsmedium will not be liable for incomplete or inaccurate information provided by the Customer or third parties in the course of executing the order. Time delays resulting from this circumstance, or generally resulting from late information or cooperation on the part of the Customer, will be added to the calculated completion period. arsmidium will then prepare a new schedule and, if necessary, a new offer.

Disclaimer

The order description in the form of a briefing/specification will be in text form only. If arsmidium provides project information and communication systems for the Customer, briefing documents will be posted there in full.

Order description

SERVICE PROVISION

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If the Customer provides materials, documents and information for the provision of the service, arsmidium assumes that these are usable, of flawless quality and free of third-party rights of any kind. If this is not the case and a third-party asserts claims against arsmidium due to the infringement of conflicting rights, the Customer undertakes to indemnify arsmidium against any liability. This also includes the assumption of all costs incurred by arsmidium due to the infringement of third-party rights and/or which are related to the protective defence and/or defence against such claims (e.g. legal and consultancy costs, etc.).

Materials of the Customer

In the event that the documents and materials provided by the Customer are not usable in order to be able to produce the contractually owed service, arsmidium is entitled to produce these provided documents anew and to improve them in order to thereby guarantee the production of the contractually owed service. In this case, arsmidium undertakes to inform the Customer in advance in text form and in this context also to inform the Customer of the anticipated costs required for the new production or improvement of the documents and materials provided. In the event that the Customer does not notify arsmidium within a period of three working days that it objects to the new creation or improvement that arsmidium deems necessary, arsmidium is entitled to arrange for the new creation and improvement of the documents and materials at the Customer's expense. The costs required for this will be calculated according to time and quantity.

Missing materials

All digital and print materials that are made available to arsmidium as a basis for production will be considered as a template. Model documents/templates, dimensions and colour specifications provided to arsmidium by the Customer are binding for arsmidium and may only be modified and/or changed if the Customer has previously commissioned arsmidium to make a modification and/or change.

Templates Customer

The Customer is entitled to notify arsmidium of subsequent changes, even after the order has been placed and the contract has been concluded, for immediate consideration during the ongoing production of the service. arsmidium will implement and observe these subsequent change requests, insofar as this is possible in the status of the production of the service at the time of notice of the change. The originally prepared offers/calculations on which the concluded contract is based do not include additional costs for subsequent changes. Requests for changes after conclusion of the contract (change request) and all ancillary and rectification work that becomes necessary as a result of the requested changes or changes to conceptual or design work will be borne by the Customer. The additional time spent and the additional material and other costs will be taken into account in the calculation and invoiced at the terms and conditions of the contract concluded.

Changes Customer

Irrespective of the actual use, the previous service rendered will also be remunerated.

Remuneration claim

The contractual agreements or the offer confirmed by the Customer, the written order confirmation by arsmidium and the additional services agreed with the Customer in the course of performance, including any changes, will be decisive for the scope of delivery. Ancillary agreements and amendments require written confirmation by arsmidium to be effective.

Scope of delivery

The services provided by arsmidium are of merchantable quality in accordance with the current state of knowledge and technology.

Performance quality

The agency is free to determine the place of work and the working hours both with regard to its own performance and the performance of persons employed by the agency. However, the Agency will take into account the requirements of the respective project when determining the place and time of performance and will ensure performance in accordance with the contract. In this respect, the agency's activities are carried out independently and autonomously of the principal's activities.

Independence

arsmedium has the right to provide the commissioned service using third parties as subcontractors. The employer can only reject such a third party if there is an important reason in the person of the third party.

Subcontractor

In the event of an express agreement for arsmidium to take over production management and release, arsmidium is entitled to make the necessary decisions and issue the corresponding instructions at its own discretion. The liability of arsmidium in this respect is limited to its own fault with regard to intent and gross negligence. In the case of subcontracting, liability is limited to fault in the selection process.

Production and release

The review of the legal admissibility of marketing measures and statements (in particular competition and trademark law; food, pharmaceutical, banking and insurance law; and all other industry-specific regulations, ordinances and laws) is only owed by arsmidium if this is expressly the subject of the order. If the Customer commissions arsmidium to carry out legal checks as a service, it will bear the resulting costs and fees of arsmidium and of third parties (e.g. lawyer, authorities) at standard market conditions, unless otherwise agreed.

Legal conformity of the service

arsmedium is not required to check the accuracy of factual statements about the Customer's products and services contained in the marketing measure which the Customer has pre-approved or approved.

Accuracy of factual statements

arsmedium does not owe any success of communication services. This is not the subject of the service, unless there is an explicit contractual provision.

**Exclusion
of success debt**

arsmedium's services are also deemed to have been rendered in accordance with the contract if they are not registrable or protectable (e.g. patent, trademark, copyright protection), unless a provision to the contrary is expressly agreed in an individual contract. arsmedium is not required, but entitled, to make services the subject of applications for industrial property rights.

**Protective rights
of benefits**

arsmedium will submit the performance result to the Customer for review and approval prior to publication. With its binding release of the work, the Customer assumes full responsibility, in particular for the correctness of logic, position, content, image, text and sound.

**Release
of the Customer**

The execution of the order and the delivery of the contractually owed service will be subject to the creditworthiness, the willingness to pay and the solvency of the Customer. The Customer is required to inform arsmedium immediately and truthfully as soon as reasons exist or occur which could have a negative influence on the creditworthiness, the willingness to pay and the solvency of the Customer. This obligation applies both before the order is placed and the contract is concluded and during the performance of the contract.

Credit rating

Any negative creditworthiness, willingness to pay or solvency on the part of the Customer entitles arsmedium to suspend/hold back the service owed by it with immediate effect, whereby the Customer is required to accept and pay arsmedium for the services already provided up to that point.

Alternatively, arsmedium is entitled to demand appropriate security from the Customer. This security can either be provided in the form of a bank guarantee from a major German bank, Volksbank or public savings bank with its registered office in the European Union, or in the form of a guarantee from another third party which is qualified as solvent after examination by arsmedium. As an alternative, arsmedium can also demand a security deposit in such a way that the Customer must make a payment in the amount of the outstanding order value to a trust account to be set up with a notary and/or lawyer indicated by arsmedium. With the proviso that the payment by the notary and/or lawyer acting as trustee to arsmedium will only be made when the work owed under the contract has been completely produced and delivered to the Customer or published.

Security

If the required security is not provided in the situation described, arsmedium has a right of retention to the contractually owed performance from the time of the request for the provision of suitable security.

**Right
of retention**

REMUNERATION

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All services provided by arsmidium are remunerated on the basis of the currently valid prices, unless otherwise agreed in individual contracts. The prices of arsmidium are subject to change and non-binding. The prices in an order placed with arsmidium become legally binding as soon as they have been confirmed in writing by arsmidium or have been bindingly agreed in a contract. The handover of services/delivery of goods or the issuing of an invoice after the handover of services/delivery of goods will also be deemed to be an order confirmation.

Prices

arsmedium is entitled to invoice additional remuneration claims on a service hour basis in accordance with the valid prices if additional services have been carried out by arsmidium due to incorrect information provided by the Customer regardless of fault or due to change requests by the Customer. Such an additional service does not require prior notice by arsmidium, in particular no approval by the Customer. Irrespective of this, arsmidium will as a rule attempt to inform the Customer of any additional remuneration claims arising as soon as they become apparent in the performance of the service.

Additional service

Prices and invoice amounts are always net and payment must include the statutory value added tax.

Value added tax

Unless otherwise agreed, services invoiced by arsmidium are due for payment without deduction within 30 days of the invoice date. The Customer will be in default on expiry of the aforementioned period without further reminder by arsmidium. Payment duties in arrears will require the Customer to pay arrears interest in accordance with §288 (2) BGB from the day following the due date. This does not affect the assertion of further damages caused by delay at the expense of arsmidium. A payment deadline is fulfilled with discharge of debt on credit to the account/bank account of arsmidium stated in the invoice.

Maturity

arsmedium is entitled to invoice partial services or offer items immediately after their completion. Orders with a net volume of €30,000 or more will be due for payment according to the following partial invoicing scheme: placing of order 1/3, mid-project 1/3 and acceptance 1/3.

Partial services

Offsetting by the Customer against a counterclaim is only permissible if the Customer's counterclaim has been expressly recognised in advance by arsmidium in writing or the counterclaim has been legally established. Apart from that, offsetting is excluded. Furthermore, a right of retention pursuant to §273 BGB is also excluded.

Set-off/counterclaim

Third-party costs will be passed on to the Customer subject to a service surcharge of 15% of the net invoice total.

Third-party costs

Travel costs are passed on to the principal without surcharge. Travel by means of transport provided by the Agency will be charged at a rate of €0.50 per kilometre travelled.

Travel expenses

Waiting times for which the Customer is unilaterally responsible will be paid to arsmidium at half the agreed service price.

Waiting times

In the event of premature termination of a project, all services rendered up to and including the day on which the Customer has informed arsmidium of the termination will be remunerated. If an application for the opening of insolvency proceedings is filed against the assets of the Customer or if the Customer declares after receipt of the invoice that it will not make a payment, the amount invoiced will be due for payment immediately.

Early termination

DELIVERY

Completion dates and/or delivery dates are subject to change. They are not deemed to be fixed dates by which the service owed by arsmidium is to be provided, unless a completion date and/or delivery date is expressly assured by arsmidium and confirmed in writing.

If arsmidium has confirmed fixed completion dates and/or delivery dates to the Customer, arsmidium will only be liable to the Customer in the event that the deadline is exceeded if arsmidium can be accused of its own fault. The liability of arsmidium is limited to the compensation of the causally arising damage, which arises due to the occurring delay and/or an impossibility of the delivery/service occurring due to the delay.

In this respect, arsmidium is not liable insofar as a subcontractor working for arsmidium does not provide the service owed by him properly and/or on time and arsmidium cannot be accused of any fault of its own with regard to the provision of the service by the subcontractor. In addition, arsmidium will not be liable for all cases of force majeure.

Fixed completion dates and/or delivery dates confirmed by arsmidium to the Customer are only binding for arsmidium if the Customer has fulfilled all documents, materials, contents, approvals, releases and payments owed for the execution of the order in due time. If the Customer violates its corresponding duties to cooperate, it is automatically fixed that arsmidium is not at fault if completion dates and/or delivery dates confirmed in the course of the order cannot be met.

If contractually owed services are performed by arsmidium according to detailed information/preferences of the Customer (e.g. templates, sketches, samples, concepts, etc.), any liability of arsmidium is excluded if the contractually owed service has been properly performed according to the detailed information/preferences of the Customer, but the Customer notices after completion that the documents provided by him have been faulty or not suitable for producing the contractually owed service in accordance with the Customer's expectations.

arsmedium is entitled to make partial deliveries and render partial services. The Customer will pay the pro rata remuneration for partial services and partial deliveries. This will also apply if a total remuneration has been agreed for the complete scope of the order.

If physical transport is required for the delivery/service, arsmidium will determine the mode of transport and carrier at its own discretion. The costs of delivery will be borne by the OP.

TRANSFER OF RISK

The risk of the contractually owed performance will pass to the Customer on handover. In the case of physical services, at the latest on dispatch/handover to the carrier; in the case of digital services, at the latest on completion of the data transfer to a data carrier agreed with the Customer.

If dispatch/handover to the Customer cannot take place because the Customer does not provide the recipient's address and/or other reasons in the Customer's area of responsibility prevent dispatch/handover to the Customer by arsmidium, the transfer of risk to the Customer takes place as soon as arsmidium notifies the Customer that the contractually owed service is ready for dispatch/handover and that it is ready for dispatch/handover. In addition, any use of a service provided by arsmidium in accordance with the contract automatically results in the transfer of risk to the Customer.

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Completion date

**Liability
Missed deadline**

Disclaimer

**Duty to cooperate
of Customer**

**Disclaimer Default
of Customer**

Partial services

Transport

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Time

**Duty to cooperate
of Customer**

NOTICE OF DEFECTS

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If services delivered to the Customer have a defect, this must be reported to arsmidium in text form without delay; at the latest within a period of seven days from delivery and/or handover to the Customer. After expiry of the deadline, the contractually owed service will be deemed to have been provided free of defects.

Regulation

The defects to be complained about must be pointed out in detail by the Customer in its notice of defects and made known to arsmidium so that arsmidium can immediately rectify the defects and/or otherwise react appropriately.

Form

If a detailed description of the defect has not been provided and/or the Customer has not clearly stated what it would like to have changed/improved/delivered subsequently in the performance of arsmidium, it will forfeit its right to complain within the meaning of these GTC and the performance owed under the contract will be deemed to have been provided free of defects.

Forfeitability

ACCEPTANCE OF PERFORMANCE

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Services provided by arsmidium are basically services - a specific service result is not owed.

Service

arsmedium can assure the Customer of a performance under the contract for work and services on an individual basis - a certain performance result is owed. Such a contract for work and services must be confirmed in writing by arsmidium to the Customer and the Customer is required to accept it. Acceptance will be deemed to have taken place if it is not declared or refused within seven working days after performance/delivery, provided that the result of the performance essentially corresponds to the agreements. Confirmation/acceptance may also be effected by way of conclusive behaviour on the part of the Customer, in particular by using/applying the result of the performance or by requesting further services based on the result of the performance.

Contract for work

RETENTION OF TITLE

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arsmedium retains ownership of the contractually produced services, products, goods and values, including contractually agreed rights of use and licences, until full payment of the owed and invoiced claim arising from the business relationship with the Customer. This retention of title also extends to processed and finished services, products, goods and values. The existing retention of title will be disclosed by the Customer to any business partners and/or customers.

Regulation

arsmedium is entitled to insure the services, products, goods and values contractually produced under retention of title against theft, breakage, fire, water and other damage at the Customer's expense, unless the Customer has provided evidence of appropriate insurance itself.

Insurance

WARRANTY

The Customer is required to immediately inspect delivered services, products, goods and values for defects.

arsmedium only provides a warranty for defects in the delivery and service that already existed before the transfer of risk. The Customer is required to notify arsmidium of such defects in writing without delay, at the latest within a period of seven days from delivery and/or handover to the Customer. After expiry of the deadline, the contractually owed service will be deemed to have been provided free of defects.

arsmedium has the right of three times rectification. If it is not possible to rectify the defect, arsmidium is entitled to provide a new product and a new delivery instead of rectifying the defect and thus to serve the Customer's justified and timely notice of defect.

The Customer will comply with its contractual duties, in particular the agreed terms of payment, even in the event of a notice of defects being issued. Payments by the Customer may only be withheld if the Customer has declared a notice of defects in due form and time, if there is no doubt as to its justification and if arsmidium has acknowledged the notice of defects in text form. Withheld payments must always be in reasonable proportion to the defect that has occurred.

The Customer will grant arsmidium the time reasonably required to remedy the defect. If it refuses to do so, arsmidium is not required to carry out warranty work and is no longer required to do so.

The Customer may only demand cancellation of the contract (rescission) or reduction of the remuneration (abatement) in accordance with the statutory provisions if arsmidium fails to remedy the defect in accordance with the above condition following a notice of defect in due form and time and in a justified manner or if it allows a reasonable grace period set for this purpose to expire fruitlessly or if the three attempts to remedy the defect or the new delivery/production do not result in the contractually owed service being produced free of defects.

The Customer's right to assert warranty claims will expire in all cases after 12 months from the time of handover/delivery of the contractually owed performance to the Customer. If a statutory provision to the contrary provides for a longer period and this cannot be waived, the agreed limitation period will follow this statutory provision. The Customer and arsmidium may agree in writing on an extension of the limitation period before the expiry of the limitation period.

The following damage that occurs after the transfer of risk and/or the following defects that are not contractually assumed and owed are expressly excluded from the warranty: natural wear and tear, incorrect or negligent handling, excessive stress, unsuitable operating materials and damage/defects that arise from chemical, electrochemical or electrical influences.

Liability at the expense of arsmidium is excluded if the Customer or a third party has carried out modifications, repair work or defect removal work on the product/service owed without the consent of arsmidium. In these cases arsmidium is not further required to perform warranty work. In addition, arsmidium does not guarantee that the service provided meets the Customer's specific requirements.

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Commitment to check

Duty of disclosure

Right of rectification

Compliance with contractual commitment

Remedying defects

Rescission of contract

Limitation

Disclaimer of warranty

Disclaimer

If arsmidium is responsible for user administration for the Customer, a response time of two working days is agreed. A warranty is excluded within this period.

User management

Further claims by the Customer against arsmidium are excluded, in particular claims for compensation for consequential damage caused by defects that did not occur to the contractual item/delivery item itself, insofar as this is legally permissible. This does not apply insofar as arsmidium can be accused of and proven to have acted intentionally or the contractually owed service lacks guaranteed characteristics and these have not been rectified/supplied and the Customer suffers damage as a result.

Exclusion of further claims

RIGHTS

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All copyrights, ancillary copyrights and rights of use remain with arsmidium as the author and rights holder, unless a derogating provision has been agreed in writing in an individual contract.

Reservation

Changes, additions, processing and the granting of rights may only be made after consultation with arsmidium as the rights holder and only with their written consent. The exploitation of intellectual and creative services and products that arsmidium makes available to the Customer is limited exclusively to the realisation of the contractually owed service and does not lead to any further granting of rights in favour of the Customer.

Restriction on the granting of rights

Rights of use will only be transferred to the Customer after timely and complete payment of the remuneration. Rights of use remain with arsmidium in full or revert to arsmidium for all services provided by arsmidium which the Customer has rejected, whose service provision the Customer discontinues or which the Customer does not actually use within three months of handover.

Rights of use

Any derogating or further use of the rights described as well as the transfer of rights to third parties is prohibited and may lead to desist orders and annex claims (information, damages, etc.).

Disclosure

END DEVICE OPTIMISATION

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arsmedium optimises Internet applications and content included in the contract for the major releases of the following browsers/operating systems current at the time of performance: Google Chrome, Microsoft Edge and Mozilla Firefox (desktop); Apple Safari/iOS and Google Chrome/Android (mobile). Further optimisations for other browsers, operating systems and versions/releases will be carried out at the request of the Customer by order extension and individual written agreement.

Regulation

Contractually included end device optimisations of any kind are always compatibility and synchronicity optimisations of the digital service created by arsmidium and never position promises or guarantees.

Being

SERVICE LEVEL AGREEMENT

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The definition of a Service Level Agreement (SLA) and the corresponding measures to achieve and maintain it will be commissioned by the Customer. The corresponding contract will be concluded in writing between arsmidium and the Customer.

**Contractual
commitment**

Every SLA agreement always affects the future; arsmidium services and products that have been already completed before signing an SLA are always excluded from a global SLA agreement. If such older services and products are to be included in an SLA agreement, the SLA concerned can be contractually extended accordingly after commissioning by the Customer and after a chargeable review and adjustment of the services and products concerned by arsmidium.

Effect

MAINTENANCE

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Maintenance services must be explicitly commissioned by the Customer. The corresponding contract is concluded in writing between arsmidium and the Customer. arsmidium draws the Customer's attention to the fact that the functionality and security of systems can only be maintained if appropriate maintenance services are provided. If the Customer fails to do so, arsmidium will not be liable.

**Contractual
commitment**

SEARCH ENGINE OPTIMIZATION

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arsmedium creates internet applications and content contract-included search engine optimised (SEO) exclusively according to current onsite factors. A guarantee or liability for the accessibility and placement of the corresponding content is thus explicitly not assumed.

Any qualitative SEO in accordance with defined KPIs requires a corresponding individual contract concluded in writing between arsmidium and the principal.

Regulation

SUCCESS CONTROL

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Call-up statistics for Internet applications and content, as well as a general statistical performance review of services and products that arsmidium has created and published, are not included in the contract. The Customer may commission the creation of such statistical and performance monitoring data within the framework of data protection legislation by means of a corresponding service contract to be concluded in writing with arsmidium.

Call statistics for Internet applications and content are always merely web server statistics with their customary technical and qualitative limitations.

Statistics

Tracking of Internet applications and content, as well as a general statistical control of the success of services and products that arsmidium has created and published, are not included in the contract. By means of a corresponding service contract to be concluded in writing with arsmidium, the CL can commission the creation of integrated site tracking within the framework of data protection legislation as an alternative or supplement to other statistical and success monitoring data. As a corresponding principal-side integrated pixel solution, this site tracking provides high-quality and comprehensive statistical and success control data with a high degree of flexibility, which is obligatory for continuous site optimisation.

Tracking

LIABILITY

If arsmidium has executed the subject of the contract in accordance with the Customer's specifications and wishes, arsmidium accepts no liability for the fact that the service or work produced for the Customer (software, etc.) can be implemented in the Customer's existing infrastructures/systems without causing damage, security risks or other undesirable interference in the Customer's already used systems and work components. The described risk must be investigated and checked by the Customer itself, unless arsmidium is commissioned to do so separately and accepts this commission. This exclusion of liability also includes all associated consequential damages.

Any claim for damages against both the Customer and arsmidium is excluded, irrespective of the breach of duty, including tort. The only exceptions to this are intentional or grossly negligent actions, the breach of material contractual duties or injury to health, body or life. The same applies to the liability of vicarious agents used. Liability under the Product Liability Act, pre-contractual liability and liability for warranty declarations will remain unaffected.

Claims for loss of profit, from saved expenditure, from claims for damages by third parties and from other direct and indirect consequential damage are excluded. This does not apply to individual contractual provisions that are intended to protect the Customer or arsmidium as the other party from the damage described as a guarantee or warranted property.

The liability of the agency is limited in its maximum amount to the coverage amounts in the calendar year of the currently valid pecuniary damage liability insurance. Accordingly, there is an upper liability limit of 1 million euros per claim and 2 million euros for all claims per calendar year.

In relation to third parties, both parties will each be independently liable. If the sole fault of one party is established, that party will indemnify the other party.

DATA PROTECTION

Personal data is processed confidentially and in accordance with the EU Data Protection Regulation (EU-GDPR) and the supplementary German data protection laws.

arsmedium stores the Customer's data electronically for the duration of the contractual relationship insofar as this is necessary for the provision of the service owed and for invoicing the service.

arsmedium also processes and uses the Customer's collected data for consulting, marketing and advertising and for market research for its own purposes.

arsmedium will provide the Customer with information about its stored data at any time on request > arsmedium.com/data-protection.

arsmedium will neither forward the data of the Customer nor the content of private messages of the Customer to third parties without the Customer's consent. Excluded from this is the forwarding of data to third parties, insofar as this is absolutely necessary for the contractual creation of the service owed. Further excluded from this is the forwarding of data to third parties, insofar as arsmidium is legally required to disclose the corresponding data. For example, by authorities or comparable state agencies. And finally, the forwarding of data to third parties is also exempt from this, insofar as internationally recognised technical standards provide for this and the Customer does not object.

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Implementation disclaimer

Exclusion Damages

Exclusion of consequential damages

Liability cap

Liability towards third parties

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Legal basis

Storage

Processing

Information

Disclosure

arsmedium expressly points out to the Customer that data protection for data transmissions in open networks (Internet) is not comprehensively guaranteed according to the current state of technology.

Data transmission

The employer knows that, for example, a provider can view data on a web server at any time for technical reasons. The Customer accepts this risk inherent in the system.

Technical risks

Under certain circumstances, other participants on the Internet may also be technically able to interfere with network security without authorisation and to observe, control, disrupt, manipulate or destroy data and data traffic. The Customer will be fully responsible for the security of its data on web servers and its data traffic on the Internet.

CONFIDENTIALITY COMMITMENT

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Both parties mutually undertake to protect all business and trade secrets of which they have become aware in the course of their business relations and not to disclose them to third parties, unless this is provided for in the contract.

Commitment

The duty of confidentiality does not apply to information which a contractual partner expressly identifies as not requiring confidentiality or which a party has demonstrably developed independently of the business relationship or which is otherwise publicly accessible.

Exception

This confidentiality commitment will exist for project-related activities until twelve months after the completion of the project, and for all other services provided by arsmidium until twelve months after the completion of the activity.

Time limit

PRODUCTION DOCUMENTS

21

arsmedium is not required to hand over digital or analog production documents to the Customer. The service owed is exclusively the respective application and further processing formats that are required for the actual use/publication of the product/service.

Regulation

A claim to the handover of underlying production documents, in particular source codes, does not take place and is not owed, unless a derogating regulation has been agreed in writing in an individual contract.

DOCUMENTATION

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Technical documentation is not included in the contract. The Customer may commission the preparation of technical documentation for its project on an individual contract basis. The corresponding contract will be concluded in writing between arsmidium and the Customer.

Regulation

Data backup, archiving and cataloguing of the principal's projects are not included in the contract. The Customer can commission these services for its project on an individual contract basis or map them globally in a framework agreement. The corresponding contract will be concluded in writing between arsmidium and the Customer. arsmidium is not required to make back-up copies.

Archiving

REFERENCE

arsmedium receives the right to use the projects of the Customer without restriction as a reference for marketing and advertising.

The Customer agrees to name arsmidium as an agency partner in a suitable place in/on the product free of charge (imprint, print product etc.).

The Customer will be entitled to revoke this provision at any time for individual projects, products or globally for all its projects.

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Marketing

Agency appointment

Right of withdrawal

LEGAL BASIS

The applicable national law of the Federal Republic of Germany is agreed for all legal relationships between arsmidium and the Customer. The applicability of the CISG and the UN Convention on Contracts for the International Sale of Goods are excluded.

The place of performance is Nuremberg.

The exclusive legal venue for all disputes arising directly or indirectly from a contractual relationship is Nuremberg, insofar as the Customer is a merchant, a legal entity under public law or a legal entity with special funds under public law.

The remainder of the contract and these terms and conditions will continue to exist and be maintained even if individual provisions are legally invalid/unenforceable. The validity of the remaining provisions will consequently remain unaffected. The parties undertake to agree on a valid provision/agreement for this case which comes as close as possible to the economic content of the invalid/unenforceable provision and the intention of the parties and which is legally permissible accordingly.

Amendments to a contract must be made in text form. This also applies to the waiver of this text form requirement.

The contractual language is German.

End of page

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Legal area

Place of performance

Legal venue

Severability clause

Contract form

Contract language