

GENERAL TERMS AND CONDITIONS – Rev. April 2015

1. Data Protection, Data Security, Loss of Data, Non-Solicitation

- 1.1 To the extent that the agreement (hereinafter “Contract”) between framsyn GmbH (“framsyn”) and its customer (“Customer”) requires framsyn (together with the Customer each a “Party”) to process or access personal data controlled by the Customer, or such access cannot be technically excluded, the terms and conditions set forth in Sec. 11 (Terms And Conditions For Data Processing) and 12 (Security Standards) shall govern data protection and data security of such personal data.
- 1.2 The Customer shall be responsible to regularly back-up data generated or exchanged in connection with the Contract. Therefore any liability of framsyn with respect to loss or corruption of such data shall be limited to the data recovery cost which would have been incurred following such regular back-up.
- 1.3 During the term of the Contract and for one year thereafter each Party shall refrain from actively soliciting employees and officers of the respective other Party to whom such Party has had direct or indirect contact in connection with the Contract to terminate employment with such Party and take up another employment or occupation. For the purpose of clarification: neither Party shall be limited with respect to any hiring of staff who apply for a position without having been or based only on job offerings addressed to the general public.

2. Ownership, Intellectual Property, Confidentiality

- 2.1 To the extent that framsyn has agreed to transfer title to any deliverables to Customer, such title shall be transferred only upon full payment of the agreed consideration therefore.
- 2.2 Unless expressly otherwise agreed in the Contract, the Customer shall receive a non-exclusive, perpetual, worldwide license right to use deliverables for its own internal purposes within their intended scope of use.
- 2.3 Except as stated hereinbefore, all right and title worldwide, including any right of use or exploitation, in and to any deliverables shall exclusively vest in framsyn.
- 2.4 The Parties mutually agree, for as long as such information remains reasonably confidential, to keep all technical and commercial information received from the respective other Party strictly confidential and to refrain from using any such confidential information except as required to consummate the Contract. The Parties guarantee that their respective employees, consultants and subcontractors also comply with these obligations. The recipient shall notify the owner of any confidential information in the event that it becomes aware that such information has become publicly known or if disclosure thereof has been requested by a court, administrative body, entity or person. This confidentiality clause shall remain in force even after termination of the Contract.

- 2.5 The Customer consents that framsyn may use its name and logo for identification as a reference customer after first informing the Customer.

3. Customer Responsibilities, Indemnification

- 3.1 It shall be the Customer's responsibility to obtain and maintain, at its own cost and risk, any digital content, software or hardware necessary for use of the services and deliverables.
- 3.2 The Customer shall, irrespective of negligence, hold framsyn harmless from all claims asserted by third parties (a) in connection with Third Party Orders (as defined below); or (b) claiming that information or materials contributed by Customer infringe third party rights or violate statutory requirements. To the extent that a breach of obligation imputable to framsyn has contributed to such third party claim, Customer's indemnification obligation shall be limited proportionately to framsyn's contribution.

4. Customer's Sphere of Responsibility

- 4.1 To the extent that the services include the publication of content or generation of reports by third parties such as search engine operators, website publishers or blog authors ("Publication Partner(s)"), framsyn will retain the services of such Publication Partners in its own name but for the account of the Customer ("Third Party Order(s)").
- 4.2 Based on the foregoing, framsyn's sphere of responsibility shall be limited to the services expressly agreed in the Contract and the diligent selection and supervision of the Publication Partners. Correspondingly, all of the following shall be considered in the Customer's sphere of responsibility:
- issues or non-conformities caused by the Customer's technical systems or contributions
 - issues or non-conformities resulting from general risks of use of the internet (e.g. loss of data, server downtimes etc.); and
 - issues or non-conformities caused by, or resulting from the sphere of responsibility of, the Publication Partners (e.g. non-publication or delayed or incorrect publication of content, incorrect reports).
- 4.3 framsyn will plan Third Party Orders and Publication Partner compensation based on the media plans issued or approved by the Customer. framsyn will invoice all Publication Partner compensation to the Customer.
- 4.4 The Customer shall be responsible to promptly provide all information and materials reasonably required for framsyn's services such as data base excerpts, product data lists, catalogues, website indices, and link structures in a format reasonably required by framsyn and to promptly notify framsyn of any change to its products or service portfolio or digital content which may affect the internet relevant inventory of search terms, trademarks or products and thereby also the distribution through different internet search engines.

- 4.5 Customer will take reasonable technical and organizational measures (e.g. use of cookies or pixels) in order to (a) enable instant internet tracking and documentation of traffic on Customer's website(s) generated by framsyn and (b) document the extent of actual e-commerce sales generated through such traffic.

5. Changes

- 5.1 If the Customer requests a change to the services, deliverables or project plan, it shall submit a change request in text form. Upon receipt of Customer's request, framsyn will, if feasible, provide a quotation setting forth the technical and organizational changes and how they will affect the scope, content, timing and/or costs of services ("Change Proposal"). If preparation of the Change Proposal requires substantial efforts, framsyn will submit a quotation for the preparation of the Change Proposal.
- 5.2 The Parties will then negotiate in good faith on the Change Proposal. Any amendments shall become valid only when the Change Proposal is confirmed in written form and negotiations thereon will not relieve either Party from its obligation to continue to consummate the Contract as initially agreed.

6. Compensation, Offsetting, Reductions

- 6.1 Supplies and services not covered by the Contract shall be billed on a time and materials basis based on the price list of framsyn prevailing at the time of receipt of the order ("List Price"). Compensation at List Price shall also apply to (a) efforts to investigate or remedy a non-conformity which is later found to have been not existent or not imputable to framsyn; and/or (b) additional cost or effort of framsyn caused by Customer's breach of obligations or failure to consummate its responsibilities.
- 6.2 Except as expressly otherwise agreed in the Contract, cost and effort (a) for migrating user accounts or data upon expiry or termination of the Contract and (b) caused by a change in the Customer's portfolio of products or services will also be invoiced at List Price.
- 6.3 Customer shall not be entitled to set off any of its claims against claims of framsyn, except where Customer's claims are undisputed or have been confirmed by a final court judgment. The foregoing shall also apply to any right of retention under civil or commercial law, and in particular to any deductions from recurrent payments to framsyn based on supposed non-conformities. This shall, however, not limit Customer's claim for repayment of any amounts paid but not owed to framsyn after such payment to framsyn.

7. Liability

- 7.1 framsyn shall be liable in damages, whether based on contract or any other legal theory, only to the extent that the damage was caused by gross negligence or willful misconduct imputable to framsyn. In the event of death of a natural person or personal injury to the latter, framsyn shall be liable also for slight negligence in accordance with statutory law. In addition, framsyn shall also be liable in accordance with statutory law for a slightly negligent violation of a fundamental duty under the Contract, but such liability shall be

limited to such damage as framsyn could have reasonably foreseen at the time of signing of the Contract.

- 7.2 Fundamental duties as used herein comprises all duties which must be fulfilled by framsyn in order to enable consummation of the Contract and the achievement of its purposes and fulfillment of which the Customer may reasonably expect in view of the content and purposes of the Contract. This in particular includes the obligation to consummate the Contract punctually and in a manner which does not endanger life or limb of the Customer and its personnel.
- 7.3 Limitations on framsyn's liability agreed in the Contract or these Conditions shall apply also to the personal liability of framsyn's officers, employees or agents.
- 7.4 Any mandatory liability under the Product Liability Act and/or arising from a guarantee of properties shall remain unaffected.
- 7.5 This Sec. 7 shall not be construed to shift the statutory burden of proof in any way.

8. Non-Conformities

- 8.1 framsyn will provide the services with due diligence and through qualified personnel and will make efforts to comply with agreed deadlines. Each Party shall notify the respective other Party if it becomes aware of circumstances which may endanger compliance with agreed deadlines.
- 8.2 Unless expressly otherwise agreed in the Contract, deliverables shall not require formal acceptance. Deliverables shall, in any event, be deemed accepted (and the Customer shall be deemed to have waived any remedies in respect of any non-conformities identifiable upon proper inspection) if Customer has failed to inspect deliverables and notify framsyn of any such non-conformity promptly after receipt of such deliverable. Any such notice shall not be considered prompt if it is received more than 14 days after delivery of the deliverable.
- 8.3 framsyn reserves the right to two attempts to remedy any non-conformity before the Customer may refuse to accept the respective deliverable, provided that both attempts can be made within a reasonable grace period.
- 8.4 Any remedies for non-conformities, including but not limited to the right to withdraw from the Contract, shall become time-barred, at the latest upon expiry of a limitation period of 12 months from the date of original delivery of the deliverable.
- 8.5 The foregoing limitation period shall also apply to claims for indemnification or damages, in particular incidental or consequential damages, caused by a nonconformity, provided that this shall not apply to remedies based on fraudulent concealment of defects; gross negligence; willful misconduct; death of a natural person or personal injury to the latter, caused by negligence or willful misconduct; and/or guarantees of properties. The statutory right of recourse shall exclusively be subject to the applicable statutory limitation periods.

9. Payment Terms

- 9.1 framsyn generally issues invoices at the end of the calendar month to which they relate. In the event of a payment default or a substantial adverse development of Customer's financial situation framsyn may demand cash in advance.
- 9.2 All invoices are immediately payable upon receipt unless other payment terms have been expressly agreed in the Contract. Customer will be deemed in default with a payment at the latest after expiry of two weeks from the due date and receipt of the invoice. Value Added Tax shall not be deemed included in the prices quoted by framsyn, and, if applicable, it will be shown separately in the invoice at the rate prevailing on the date of the invoice.
- 9.3 Compensation on a per click basis shall be accounted for monthly on the 5th working day of the next following calendar month. The accounting will exclusively be based on the numbers of clicks reported by the search engine operators and/or Publication Partners. framsyn is entitled to receive the click reports together with the monthly accountings.
- 9.4 Both Parties are mutually entitled to require an audit of the records and systems of the respective other Party to establish the basis of the accountings through auditors under an obligation of confidentiality in accordance with § 87c par. 4 of the Commercial Code (HGB).

10. General Provisions

- 10.1 Place of performance for all services and delivery of all deliverables shall be at the domicile of framsyn.
- 10.2 The Contract and the Schedules thereto constitute the Parties' entire agreement concerning the subject matter thereof. Any amendment, supplement, termination or waiver of any provisions of the Contract, including this provision requiring written form, shall be valid only if made in written form. The same shall apply to any notices and other communications in connection with the Contract.
- 10.3 The courts of Munich shall have exclusive jurisdiction over any dispute in connection with the Contract. framsyn reserves the option to alternatively file complaints against Customer in the courts having general personal jurisdiction over customer.
- 10.4 The Contract shall be governed by, and construed in accordance with, the laws of the Federal Republic of Germany without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 10.5 Should one or more of the provisions of the Contract be or become invalid or unenforceable, the validity and enforceability of the other provisions thereof shall not be affected. The invalid or unenforceable provision shall be replaced by a provision that is

valid and enforceable and corresponds most closely to the economic intent of the Parties as evidenced by the original provision.

11. TERMS AND CONDITIONS FOR DATA PROCESSING

11.1. Definitions

These terms and conditions for data processing are an integral part of the service agreement between framsyn GmbH, Munich, Germany ("**Processor**") and the Customer identified in the agreement ("**Controller**") (the "**Agreement**") which inter alia provides that Processor shall process personal data on behalf of the Controller or may have access to such data in connection with other services to the Controller (the "**Processor Relationship**"). In addition, the definitions of the *Bundesdatenschutzgesetz* (German Federal Data Protection Act, "**BDSG**") shall apply.

11.2. Subject Matter and Term

The Processor Relationship constitutes a material part of the Agreement. The scope and purposes of the Processor Relationship have been laid down in the Agreement. The Processor will process personal data only in accordance with the Processor Relationship, the Agreement, the Controller's instructions (clause 11.11) and applicable laws. The term of the Processor Relationship shall correspond with the term of the Agreement, unless otherwise agreed. Breaches in connection with the Processor Relationship may constitute cause for termination of the Agreement. Similarly, the Processor shall be entitled to terminate the Agreement for cause where instructions of the Controller in connection with the Processor Relationship prevent or unduly inhibit consummation of the Agreement.

11.3. Scope, Nature, Purpose, Data Subjects and Place of Data Processing

The scope, nature and purpose of the collection, processing or use of personal data as well as the categories of personal data, the data subjects and place of data processing activities have been laid down in the Agreement. In the absence of any express provisions in the Agreement, the Agreement shall be construed to provide that the Processor may not access or process personal data and these General Terms and Conditions are referenced in the Agreement only because such access cannot be excluded. Unless expressly otherwise agreed, instructions hereunder will be given directly to the Processor's management and all processing will take place within the European Economic Area. Any transfer outside of such area requires the Controller's prior consent.

11.4. Data Protection and Data Security Policy

The Processor has enacted a Data Protection and Data Security Policy ("**Policy**") specifying the measures implemented in order to comply with obligations under the Annex to § 9 of the German Data Protection Act ("**BDSG**"). Unless the Policy has been attached to the Agreement it will be made available to the Controller upon request at any time.

11.5. Technical and Organizational Procedures

The Processor shall ensure that the technical and organizational procedures set forth in the Policy have been implemented as of the effective date of the Agreement. Such procedures shall be audited in the context of the Initial Audit in accordance with clause 11.9. In any event, the Processor will comply with the generally accepted principles of proper data processing and further generally accepted standards and practices.

The Processor will maintain the technical and organizational procedures set forth in the Policy during the entire term of the Agreement. Insofar as such procedures are subject to technical progress and further developments, the Processor *may* implement equal alternative procedures, and it is *obligated* to implement such procedures as are necessary to ensure a state-of-the-art data protection and data security level.

Any material changes to the Policy must be documented. The amended Policy must be forwarded to the Controller upon request at any time.

Upon the Controller's request, the Processor must establish compliance with all requirements of this clause 11.5. For this purpose, the Controller may require the Processor to provide either a disclosure letter, or up to date reports of independent third parties (e.g. an accounting firm, the data protection officer, or an external data protection auditor or quality auditor), or an appropriate certificate issued by an IT safety audit or a data protection audit firm (collectively "**Certificate**").

11.6. Correction, Barring and Deletion of Data

The Processor may correct, bar or delete data processed on behalf of the Controller only pursuant to the Controller's instructions. The Processor will forward any request from data subjects to correct, bar or delete personal data to the Controller immediately.

11.7. Internal Controls and Further Obligations

The Processor will strictly separate the data processed in accordance with the Processor Relationship from other data.

The Processor will preserve and respect the confidentiality of personal data and will comply with the same confidentiality provisions as the Controller. Further, the Processor will instruct all employees with access to data processed in accordance with this Agreement on the applicable provisions (including the Controller's instruction rights and the limitations on use of personal data) and will formally commit them in written form to preserve and respect the confidentiality of personal data and to comply with the same confidentiality provisions as the Controller. The Processor will supervise compliance with the aforementioned provisions. The Processor will appoint a data protection officer if so required by law.

Upon the Controller's request, the Processor will provide the Controller with the information pursuant to § 4g para. 2 1st sentence of the BDSG in a suitable manner and will support the Controller with respect to compliance with any other statutory information duty.

11.8. Subcontractors

The Processor may subcontract services only with the Controller's prior consent which may not unreasonably be withheld. Its liability vis-à-vis the Controller shall not be limited thereby. The Processor shall make sure, and will prove upon request, that all Agreements between the parties and particularly all control rights of the Controller pursuant to clause 11.9 will be enforceable also against any subcontractor. The Controller may require the Processor to disclose the essential terms and provisions of the subcontract, including the enforcement of data protection related obligations. If necessary, the Controller may review a copy of relevant parts of the subcontract.

11.9. Initial Audit, Controlling Rights of the Controller

Prior to the first data transfer, the Controller may audit or have audited the procedures pursuant to clause 11.5 ("**Initial Audit**"). At any time during the term and for a period of six months after the termination of the Agreement, the Controller may at its own cost audit or have audited the Processor's procedures in accordance with clause 6 of the Annex to § 9 of the BDSG (processor compliance control). For this purpose, the Controller may take random samples on site in the Processor's facilities, inspect files and data processing programs, or ask for voluntary disclosures.

Upon request, the Processor will provide the Controller, at the Controller's cost, with any information or documentation necessary for compliance with the Controller's obligations

under clause 6 of the Annex to § 9 of the BDSG (processor compliance control). The Processor shall further enable the Controller, at the Controller's cost, to ascertain that the Processor has implemented the required technical and organizational procedures pursuant to clause 11.5. For this purpose, the Processor may, with respect to measures which are not limited to the Processor Relationship with the specific Controller, at its option submit a Certificate.

The Controller shall compensate Processor's costs and efforts in connection with audits according to this clause 11.9.

11.10. Notification in case of Non-Compliance by the Processor

The Processor will notify the Controller immediately in case there are grounds that indicate a potential violation of obligations with respect to the Processor Relationship or of statutory provisions on the protection of personal data. This shall apply particularly in case of loss of personal data or unauthorized transfer or disclosure of personal data pursuant to § 42a of the BDSG. Such obligation shall apply accordingly also in case of substantial interruptions or disruptions of operations.

11.11. Right of Instruction

The Controller reserves the right to instruct the Processor on the nature, scope and procedures of processing personal data. The Controller will promptly confirm any oral instructions in writing or by email.

The Processor may not use personal data for purposes other than those stipulated in the Agreement. Such data may not be transferred or made accessible to third parties. The Processor will not make copies of the data without the Controller's consent, except backup copies that are necessary to ensure the adequate and proper data processing, and except data that are necessary to comply with statutory document retention duties. Such data are to be barred for other uses. The Processor may provide information to third parties or data subjects only with the Controller's prior consent.

The Processor will notify the Controller immediately where, in the Processor's opinion, an instruction violates data protection laws. In such case, the Processor may suspend compliance with an instruction pending final confirmation or amendment of the instruction by the Controller.

11.12. Deletion of Data and Return of Data Carriers

Upon the Controller's request, and in any event upon termination of the Agreement, the Processor will return all documents, all results of the use and/or processing of data and all data as well as all testing and waste materials in connection with this Agreement (collectively the „Records“). With the Controller's prior consent, the Processor may destroy such Records instead. Upon request, the Processor will provide the Controller with a protocol on the destruction process. The Processor shall have no right of retention with respect to any Records.

Documentation evidencing compliance with this Agreement, proper data processing rules or with statutory data retention duties, shall be preserved by the Processor after the termination of this Agreement in accordance with applicable statutory document retention provisions. The Processor may return such documentation to the Controller. In any event, such documentation must be barred for other uses.

11.13. Business and Trade Secrets

In order to protect its own business and trade secrets and other confidential information, the Processor may require that information, audits and the submission or review of documents under the Processor Relationship and these General Terms and Conditions are limited in scope to what is strictly necessary to establish compliance of the Processor with its obligations hereunder and/or only implemented through an independent third party to be retained by the Controller who is under an express obligation to disclose to the Controller only such information

as is strictly necessary to establish compliance of the Processor with its obligations hereunder.

12. SECURITY STANDARDS

12.1 Facilities Admission Control

Measures to prevent unauthorized persons from entering facilities where personal data are processed:

Data are maintained in facilities where electronic security cards are required for employees to enter. In addition, servers are located in locked rooms accessible only to specially authorized employees with appropriate security clearance.

12.2 Hardware Access Control

Measures to prevent unauthorized persons from accessing or using hardware used to process personal data:

Network access is restricted by password at multiple levels. Access to data is password-protected and available only to a highly restricted group of people with a functional requirement to have access to this data.

12.3 Limited Access Rights

Measures to restrict the access to personal data to authorized personnel:

Network access is restricted by password at multiple levels. Access to data is password-protected and available only to a highly restricted group of people with a functional requirement to have access to this data.

12.4 Transmission Control

Measures to (i) make sure that personal data cannot be accessed or processed by unauthorized persons during transmission and (ii) protocol of the recipients of personal data:

All transmitted data are transmitted by SSL/VN - encrypted at the source into a password protected access file. Password protected firewalls ensure that only authorized users can access group wide area and local area networks.

12.5 Processing Protocols

Measures to protocol the processing of personal data and the identity of the processor:

All processing is protocolled in log files.

12.6 Processor Compliance Control

Measures to ensure processor's compliance with orders issued by the Controller:

All persons with access to the data are aware that the confidentiality and the integrity of the data must be strictly maintained. Anybody who provides processing or maintenance services is required to enter into a written agreement and is audited and supervised in accordance with applicable law.

12.7 Damage Control

Measures to protect personal data against unlawful destruction or accidental loss:

All data are held electronically and backed up daily in a secure offsite facility. In addition, there are disaster recovery plans in place. The general security measures mentioned above also protect against unlawful destruction and accidental loss of the data.

12.8 Restrictions on Combination of Data

Measures to ensure that personal data collected for different purposes are processed separately:

The data are technically separated from other data.