

# Standard Terms and Conditions of Business

Rev. 01.01.2007

## § 1 Application of the Standard Terms and Conditions of Business

Radiopark GmbH & Co. KG (hereinafter referred to as Radiopark) shall provide its goods and services solely on the basis of these Standard Terms and Conditions of Business, which shall constitute an integral part of all contracts entered into with Radiopark. Notwithstanding the absence of any express rejection, the Customer's terms and conditions of purchase or business shall only be deemed to be binding if they are acknowledged in writing by Radiopark in the applicable contract.

## § 2 Offers

1. Radiopark shall be bound by its offers for a period of no more than 30 days.
2. Radiopark reserves all ownership rights, copyright and all other industrial and non-industrial rights with respect to all audio and audiovisual productions, illustrations, drawings, calculations and other documents submitted for the purpose of providing an offer. None of the aforementioned productions, documents or objects may be made available to third parties or used for any other purpose except with Radiopark's prior written approval.

## § 3 Radiopark's obligations

1. All agreements concerning the quality of the subject matter of the contract in question and guarantees of their characteristics shall be binding only if given in writing.
2. Services such as the provision of a domain, the rights to copy, images or audio material, software, commercial or non-commercial property rights, translations, the production of reprographic material, the collection of data and transfer of the results of Radiopark's work to ISPs shall not be included in the scope of the contractual obligations unless this is expressly agreed in writing. If Radiopark provides such additional services, the Customer shall pay for these over and above the agreed remuneration.
3. Radiopark shall only be under any obligation to process or edit data supplied by the Customer (text, animated or non-animated images, audio) if this is necessary for the performance of the Contract.
4. Radiopark may perform the Contract in part deliveries provided that this is reasonable for and acceptable to the Customer.

## § 4 Performance periods

1. Periods for the performance of the Contract shall not commence until the Customer has supplied all necessary documents or clearances or the agreed advance payment has been received.
2. If Radiopark is unable to comply with agreed periods for the performance of its duties under the Contract for reasons beyond its control, it shall notify the Customer accordingly within such period, in which case the period shall be extended by two weeks.
3. If the Customer is in default with respect to remittance of any advance or part payments or if there is a material deterioration in its financial condition after the Contract has been entered into, Radiopark may suspend all further performance of its obligations thereunder pending receipt of payment or payment guarantee.

## § 5 Acceptance, submission of complaints

1. The Customer undertakes to examine and declare its acceptance of the services provided by Radiopark within eight calendar days of receipt. If no complaint is received or the Customer utilizes the services provided by Radiopark free of any reservations within this period, it shall be deemed to have accepted the services notwithstanding the absence of any express notice of acceptance.
2. Apparent faults shall be reported to Radiopark in writing within the period of eight calendar days referred to in Para. 1 above. Otherwise, no liability shall accrue to Radiopark under the guarantee. The Customer shall allow Radiopark to perform an error analysis and to remedy the fault.
3. If there is a risk of loss or damage occurring as a result of a fault, the Customer shall take all reasonable precautions to avert or mitigate such loss or damage and notify Radiopark without delay.

## § 6 Prices, payments

1. In the absence of any express agreement on the price of the services, the prices contained in Radiopark's price list as last amended shall be deemed to apply.
2. The prices shall be quoted net of statutory value-added tax, which shall be itemized separately in the invoice at the statutory rate prevailing on the date of invoice. Invoices shall be payable net within 14 days of the date of invoice.
3. In the case of larger volumes of services, Radiopark may request reasonable part payments in accordance with the percentage of completion.
4. Amounts due to Radiopark may only be retained or netted with a counterclaim if such counterclaim is not under dispute or has been upheld in a court of law. The Customer may not assert any right of retention with respect to counterclaims not arising from the same contractual relationships.

## § 7 Customer's obligations

1. The Customer shall notify Radiopark immediately of any change in the identity of the employee responsible for the project, any changes in its

legal form as well as the application for the commencement of insolvency or settlement proceedings.

2. The Customer shall be responsible for transmitting the results of Radiopark's work to its ISP at its own expense. If, by way of exception, Radiopark does this, the Customer shall supply Radiopark with all necessary data and access authorization to do so.
3. The data to be furnished by the Customer shall be supplied in formats capable of being processed by Radiopark, it being agreed that such formats shall be determined in advance by and between the Parties.
4. The Customer shall be responsible for performing a legal and factual examination of the data which it is to provide. At Radiopark's request, the Customer shall examine the data processed or edited by Radiopark prior to its ultimate use.
5. The Customer warrants and represents that it holds all necessary editing, utilization, exploitation and all other rights to the documents and data which it is required to provide to the extent that such rights are required for Radiopark to perform his duties hereunder.
6. The Customer shall indemnify Radiopark for all loss or damage incurred as a result of any services provided by Radiopark with respect to the content selected or requested by the Customer breaching any legal or statutory stipulations, ethical principles or third-party rights provided that Radiopark could not have been reasonably expected to recognize such breach.

## § 8 Non-disclosure obligation

In the absence of any agreement expressly to the contrary, all information and documents becoming known or provided in connection with or as a result of the business relationship with Radiopark shall be confidential.

## § 9 Copyright and performance rights

1. In the absence of anything expressly to the contrary, Radiopark shall grant the Customer the non-exclusive right to utilize the services which it provides in accordance with the terms of this Contract. No other utilization beyond this shall be permissible. In particular, the Customer may not grant sublicenses or reproduce, hire or otherwise exploit the services.
2. The Customer undertakes to disclose Radiopark's name, to include the appropriate credits ("copyright" and/or "designed by" or other disclosures subject to consultation with Radiopark) on its website and to refrain from removing the related links. The results of Radiopark's activities may only be modified or edited with its prior written approval.
3. The grant of rights as anticipated in Article 1 herein is subject to the condition precedent of full settlement by the Customer of all remuneration claims hereunder.

## § 10 Radiopark's liability

In the event of grossly negligent breach of a material duty under this contract, Radiopark's liability shall be limited to foreseeable loss or damage within the sphere of control and risk attributable to the Customer except in the case of gross negligence on the part of Radiopark's managing directors or senior staff. Accordingly, this limitation shall apply only to the gross negligence of Radiopark's other servants.

## § 11 Customer's documents and data

1. Radiopark shall treat the documents and data with which it is entrusted with the customary standard of care. The Customer shall be responsible for insuring such documents or data.
2. Radiopark shall retain and/or store the Customer's documents and data for a period of three months as of the acceptance of the services which it provides or, if the services are not accepted and the Parties terminate the Contract, for a period of three months as of the date of termination. After the expiry of this period, Radiopark may destroy the documents and data media and/or delete the data if the Customer has not requested their return by then.

## § 12 Miscellaneous

1. The place of fulfillment shall be Radiopark's registered offices.
2. This Contract shall be subject to the law of the Federal Republic of Germany.
3. All amendments or additions to this Contract shall be in writing only. This requirement of writing may only be waived in writing.
4. If any of the provisions contained herein are void or ineffective, this shall not prejudice the validity of the Contract as a whole. In this case, the Parties agree to replace the void or ineffective provision with a valid and effective one which comes as legally close as possible to its intended commercial purpose.
5. All disputes arising from or in connection with this Contract shall be referred to the court responsible for the town or city in which Radiopark has its registered offices. In addition, Radiopark may commence proceedings before any other court with the requisite jurisdiction.