

GENERAL TERMS AND CONDITIONS

as of December 2020

of
Ingenious Technologies AG
(hereinafter referred to as "Ingenious")
Französische Straße 48
10117 Berlin

1. Scope

Only the following General Terms and Conditions in the version valid at the time a contract is concluded shall apply to contracts between Ingenious and the contractual partner (hereinafter referred to as "Client"), particularly regarding services in the context of the use of the Ingenious technologies software "Partner Marketing Platform" including its modules Trail, Partnerships, Insights, Finance, Access, Creatives, Integration and Messaging (hereinafter referred to jointly and individually as "Software"). Contradictory terms and conditions of the Client shall not apply, unless where Ingenious expressly consents in writing to their application.

2. Subject matter and conclusion of the contract

- 2.1. This contract covers technical services in connection with the use of the Ingenious Technologies Software and customized consulting services as well as other services.
 - 2.1.1. Ingenious is a platform for automating business processes and its related data for the purpose of Partnership Management within B2B2B2C relationships, according to section 5 hereof.
 - 2.1.2. If the parties agree on consulting or operational services, the provisions of section 6 hereof shall also apply.
 - 2.1.3. If the parties agree on other services, the provisions of section 7 hereof shall also apply.
 - 2.1.4. The use of Payments as a Service (PaaS) requires a separate agreement between the Parties.
- 2.2. Placing an order by letter, fax or e-mail or, in the case of an online booking, submitting an online order request shall be deemed to constitute an offer by the client to conclude a contract. Any such offer of the client refers to the respective services offered by Ingenious and includes these general terms and conditions. Following receipt and examination of the offer, acceptance by Ingenious may be expressly communicated either by a corresponding notice to the Client or upon commencement of the provision of the service by Ingenious.

3. General rights and obligations of Ingenious

- 3.1. Ingenious shall provide the services agreed in the relevant offer with due regard for the Client's rights, legally protected rights and interests.
- 3.2. Ingenious shall provide access to the Software as a software as a service via the internet and shall grant the Client a right of use. The scope of performance of the Software results from these General Terms and Conditions and the relevant offer.
- 3.3. Adjusting the Software to the Client's specific needs must be ordered separately and subject to the provisions of section 7 hereof.
- 3.4. Ingenious is entitled but not obliged to change the software, in particular to adapt it to technological progress. In doing so, individual features may also change or be omitted completely. Significant changes that affect the overall functionality of the

- Software shall be announced by Ingenious giving at least two weeks' notice in a suitable manner, e.g., while the Software is being used.
- 3.5. If changes are made to the Software, this may lead to an interruption of the use of the Software by the Customer. Ingenious shall endeavour to perform these changes at night or on weekends. They shall only lead to a temporary interruption or restriction of accessibility during normal business hours if this is necessary for technical reasons. Unannounced periods of unavailability are limited to a total of ten hours per month.
 - 3.6. Ingenious shall provide the Customer with a dynamic user manual which can be accessed via the Internet, which describes the essential features of the Ingenious Platform and which is updated on a regular basis. No further description of the Ingenious platform is required.
 - 3.7. Ingenious is permitted to refer to the fact that the Client has commissioned Ingenious in an appropriate manner and may use logos etc. belonging to the Client in reference lists (whether online or offline) for this purpose even after the contract has expired.
 - 3.8. Unless otherwise expressly agreed in writing, Ingenious is permitted to accept and process orders from clients of the same or similar industries during the term of the contract and beyond.
 - 3.9. Ingenious is entitled to impute as complete and correct all parameters (e.g. conditions, definitions, advertising material) defined by the client within the software itself and the automatically-generated results of the software based thereon. In particular, Ingenious is not obliged to check the conditions and automatic results.

4. General rights and obligations of the Client

4.1. Definition of the parameters

- 4.1.1. The Client shall be responsible for the definition of the parameters necessary to use the Software (including management of companies, retailers/advertisers or management of affiliates).
- 4.1.2. The Client is aware that the results determined by the Software are based on a fully automatic process based upon the conditions defined by the Client.
- 4.1.3. The Client shall not engage in any activity that is likely to impair and/or overload the functioning of the software, the services offered and/or the underlying infrastructure. This includes in particular
 - the use of software, scripts or databases in connection with the use of the Software;
 - the automatic reading, blocking, overwriting, modifying, copying of data, unless this is necessary for the intended use of the software;
 - using the Software for a purpose or in a manner expressly prohibited by these Terms and Conditions or the Offer or in violation of the law;

The Client will comply with applicable law, including applicable export laws, when using the Software.

4.2. General duties to cooperate

- 4.2.1. The Client undertakes to support Ingenious completely and to the best of their ability in the performance of the contractually-agreed services. This duty of cooperation shall in particular include the timely hand-over of necessary information and documents.
- 4.2.2. The Client is obliged to provide truthful and accurate contractual information, especially concerning the performance-based billing (e.g., definition of parameters according to section 4.1 hereof). The Client undertakes not to enter into any agreements with its customers or partners which contrary to good faith and customary practice, would cause a disadvantage to Ingenious.
- 4.2.3. The Client shall name at least one binding contact for Ingenious who shall be authorised and able to make all decisions to be made in the context of this contract and to communicate them to Ingenious.

4.2.4. The Client shall be responsible for all actions of its customers, other partners and representatives within the scope of this agreement and must, where applicable, accept responsibility for their actions as if they were the Client's own.

4.3. Payment of the fee

4.3.1. The Client shall be obliged to pay to Ingenious the agreed fee when due subject to the provisions of section 8 hereof.

4.4. Reimbursement of the cost of SSL certificates

4.4.1. Ingenious provides Tracking using the Client's domain. Where appropriate Ingenious shall purchase wild card SSL-certificates for the Client. The costs resulting therefrom are to be prepaid by the Client for a period of one year. The provisions of section 8 hereof apply accordingly.

4.5. Source code and use of the Software

- 4.5.1. The Client shall have no right to the Software's source code. The Client shall not be entitled to obtain access and/or change the source code in any way whatsoever. Furthermore, the Client shall not be entitled to reproduce or alter the Software or to grant third parties' access to the contractual Software except for the agreed purpose of the contract.
- 4.5.2. The use of the Software shall be permitted solely for the purposes defined within the contract (Section 5 hereof). In the event of misuse by the Client, its partners or representatives, Ingenious shall be entitled to suspend performance of the order until the Client, its partners or representatives refrain from misusing the software.

4.6. Indemnification

4.6.1. The Client shall indemnify Ingenious from any and all claims which may be raised against it by a third party based on an alleged or actual infringement of a right by the Client and/or its partners and/or representatives and/or any third-party rights and undertakes to reimburse Ingenious for any costs which Ingenious may incur due to such claims by a third party. Reimbursable costs shall in particular include the costs of suitable legal action and legal defence.

4.7. Training

4.7.1. The Client will ensure that persons using the Software (especially employees, service providers and customers) participate in training programs provided by Ingenious and qualify for the corresponding certificates. No person shall be permitted to use the Software without prior training.

4.8. Data protection

4.8.1. Data protection is the highest priority for Ingenious. The Client is obligated to comply with all applicable data protection regulations and to apply all appropriate technical and organisational measures to protect data against loss, unauthorized access and other risks while using the Software. Any security problems related to data protection must be reported to Ingenious immediately.

5. Partnership Management Platform

5.1. Partnership Management (Partnerships)

5.1.1. Use of the Software by the Client

The purpose of using the Software is the management of the Client's partners within a private program or a private network or public network. The Software helps the Client to manage online advertising campaigns by means of partnerships as defined by the Client and success-related events generated by these parameters (hereinafter

referred to as "KPIs" or "Events"), e.g. sales, leads, transactions, conversions, clicks, views, API-Calls.

5.1.2. Relationship with the Client's partnerships

It is the sole responsibility of the Client to select the partners of its private program or private network or public network and to initiate, contractually design and carry out a campaign with the respective contractual partner.

5.1.3. Self-administration of partnerships

The Client shall manage the online marketing campaigns and the participating partners itself and be responsible for defining both the details of the campaigns (e.g. the type of advertising materials) and the terms and conditions, in particular KPIs and commissions of the contractual partners, within the framework of the Software itself. It is the sole responsibility of the Client to manage the confirmation or rejection of KPIs. The maximum time limit for a fictitious deemed confirmation of KPIs is 60 days.

5.1.4. Tracking (Trail)

5.1.4.1. One element of the Software is the option to track KPIs as defined by the Client. The tracking system provided by Ingenious is used for this.

5.1.4.2. The Client agrees to cooperate in performing the tracking. In particular, the Client shall integrate the corresponding tracking codes (container tags) on the target pages as scheduled and specified by Ingenious and ensure the permanent and reliable delivery of the tracking codes.

5.1.4.3. If tracking is not possible for reasons within the scope of the Client's or one of the partner's responsibility (e.g. because of an expired SSL-Certificate, changed DNS-settings or other failure of shops, websites or other advertising media failure), this does not affect Ingenious's right to remuneration. The calculation of the fee for the period of tracking failure shall be based on the average of the previous three months.

5.1.4.4. The Client shall not do anything that may interfere with tracking. The parties hereto shall inform each other if it becomes apparent that tracking is impaired for any reason whatever.

5.1.5. Customer Journey Tracking (Insights)

5.1.5.1. Ingenious enables the Client to track the results of the online marketing measures agreed with its partners (Customer Journey with optional attributions). The details result from the offer.

5.1.5.2. Ingenious will collect the necessary data and provide it via the evaluation tool. The Client itself shall be responsible for setting the correct parameters prior to this.

5.1.5.3. The Client undertakes to comprehensively co-operate in the Customer Journey Tracking. In particular, the Client shall integrate the appropriate tracking codes (container tags) in all relevant places as specified by Ingenious and ensure the permanent and reliable delivery of the tracking codes

5.1.5.4. If the tracking is not possible for reasons within the scope of the Client's or one of the Partner's responsibility (e.g. because of an expired SSL-Certificate, changed DNS-settings or other failure of shops, websites or other advertising material), this shall not affect Ingenious' right to remuneration. The fee for the period of tracking failure shall be based of the average of the previous three months.

5.1.5.5. The Client shall not do anything which may interfere with the Customer Journey Tracking and, where necessary, shall oblige partners in this respect.

5.1.5.6. The parties hereto shall inform each other if it becomes apparent that Customer Journey Tracking is impaired for whatever reason.

5.2. Charging, Account Processing, Billing and Payment (Finance)

- 5.2.1. Ingenious supports the Client with charging, account processing, calculation of commissions and the handling of payments agreed in the contracts concluded between the Client and partners or partners between themselves.
- 5.2.2. Ingenious clearly assigns each KPI to the partners involved and in such a way that they specific periods can be verified.
- 5.2.3. The recorded transactions are summarized in electronic documents, which depending on the accounting system used by the Client or partner, can serve directly as accounting documents. The creation of proper vouchers by Ingenious requires that the data of all participating partners is correctly entered by the Client at the beginning of the respective accounting period.
- 5.2.4. Ingenious ensures a complete documentation of transactions made. The change of a partner's status cannot be deleted retroactively, it can only be changed. This also applies to any tax regulations applicable to partners and to any need to re-invoice. The Client shall ensure that all data is correct from the beginning.
- 5.2.5. Payment
The following shall also apply in the event that the parties agree to the use of the Payment section of the Finance module (Finance):
 - 5.2.5.1. Ingenious shall support the Client in the settlement of the processing of payments agreed in the contracts concluded between the Client and partners or between the partners.
 - 5.2.5.2. As technical service provider of the Client, Ingenious shall primarily forward the results automatically generated by the Software via an interface (API) to a bank determined by Ingenious (hereinafter referred to as "Bank"). This includes in particular the notification of the KPIs confirmed by the Client when using the Software. In addition, the Software automatically generates payment overviews or journals for the partners and makes them available to the Client in a digital format.
 - 5.2.5.3. The payment itself is processed by the Bank on behalf of the Client. It is possible to use PaaS without the Bank, but requires a separate agreement with Ingenious,
 - 5.2.5.4. Ingenious is not obliged to check the results determined by the Software.
 - 5.2.5.5. The processing of payments by the Bank is not the subject of this agreement.
 - 5.2.5.6. By using the Payment section and confirming the KPIs, the Client can give payment instructions directly to the Bank. The information is forwarded automatically via the API when the Software is used. Ingenious does not act as representative or as messenger in this process, solely as technical service provider.
 - 5.2.5.7. The Client is responsible for transferring an appropriate and sufficient budget for a campaign to the business account. Ingenious shall not be obliged to ensure or check that there are sufficient funds in the account.
 - 5.2.5.8. If the budget is used by a third party, e.g., an agency, any payments are deemed as payments made by the Client.

5.3. Access and Access Data (Access)

- 5.3.1. The Client shall ensure that only persons who have been trained in accordance with section 4.7 hereof will have access to and use the Software. This applies particularly but not exclusively to the use of the API.
- 5.3.2. The individual access data shall be communicated to the Client by Ingenious in due time after conclusion of the contract and after completion of the training program according stipulated in section 4.7 hereof.
- 5.3.3. The Client shall store its access data carefully and protect it against unauthorised third-party access. Actions which are carried out using the access data shall be

deemed to have been taken by the Client. The Client shall not be entitled to disclose its access data to a third party.

- 5.3.4. Where the Client, with the consent of Ingenious, gives access data to a third party (e.g. employees, service providers or customers), the Client shall be responsible for all actions such a third party takes using the access data. The Client shall familiarise the third party with the use of the Software, explain the significance of actions which can be taken, require the third party to store the access data carefully and protect it against third-party access and expressly prohibit disclosure of the access data to other persons. The Client shall accept that all actions taken by using this access data as well shall be regarded as actions taken by itself.

5.4. Deviations from original set-up

- 5.4.1. The platform is designed to provide the best possible performance. Deviations from this setup due to actions of the Client may influence the overall performance of the platform as well as the results achieved.
- 5.4.2. Ingenious understands that some deviations make sense (e.g. in management and delivery of Ad Media (creatives); in the connection of third party system with the platform (integrations); in different or additional tags or parameters; in interaction and communication with platform participants (messaging)). However, to avoid any degradation in the performance of the system or changes in the availability or the flexibility of the platform the Client shall consult with Ingenious prior to making any changes.
- 5.4.3. Any reduction in performance or changes in availability directly or indirectly caused by deviations undertaken by the Client are at the Client's own risk and responsibility.

6. Customer Services, Customer Support, Training, Managed Services

- 6.1. Insofar as the Parties agree on further Services, Ingenious shall provide consulting and/or operational services for the use of the Software. The Service Levels are determined by the order. Ingenious shall only be responsible for performing the consultancy services and not for ensuring success.
- 6.2. The term of the Customer Support (Standard Support and Premium Support) is determined by the term and notice periods as defined under Section 10 hereof.

7. Obligations relation to other service contracts

- 7.1. As far as other service contracts (in particular individual adaptations of the software, training and support services) are agreed upon, Ingenious is responsible for the activities within the agreed upon period and scope. The details of the service to be provided by Ingenious result from the respective commission and - if concluded - from a separate contract. Ingenious is responsible for the performance of the agreed services, but not for obtaining a specified result.
- 7.2. Ingenious shall be entitled to use subcontractors to provide services and to replace both subcontractors and individuals used to provide the service agreed without the express consent of the Client, provided that this is not unreasonable for the Client. The Client may not derive any rights from any delay which may be caused by such an exchange.
- 7.3. When selecting the persons used to perform the service provision contract, Ingenious shall take reasonable account of the Client's interests. Ingenious shall be entitled to commission and involve other external services providers to support the performance of a service.

8. Remuneration, payment terms and consequences of default

- 8.1. All prices agreed shall be net prices to which the applicable statutory value-added tax shall be added.

- 8.2. Unless expressly agreed otherwise in writing, payments must be made for a period of three months in advance.
- 8.3. The set-up fee is due on the conclusion of the contract. Within the first four weeks (set-up period), the set-up fee covers the costs for a limited consulting volume and the set-up. If the scope of the consulting within the set-up phase exceeds the limited consulting volume or takes place after the end of the set-up phase, any further consulting will be charged according to the valid price list.
- 8.4. The customer support fees are due in advance, once a year, where these are billed separately.
- 8.5. The technology fee is calculated according to the occurrence of the KPIs and commissions set by the Client within the scope of the Software. If the Client enters a performance-based commission of 0 Euro, Ingenious may at its own discretion impose a technology fee at a rate in line with current market practices and according to the particular circumstances.
- 8.6. Invoicing occurs at the beginning of the billing period. The Technology Fee is estimated based on Tracking and can be continually adjusted; deviating amounts will be accounted for in adjustments to later invoices. The first invoice amount shall be estimated by Ingenious at its own reasonable discretion.
- 8.7. Remuneration for additional services (e.g. further services according to section 7 hereof) are invoiced monthly according to work performed.
- 8.8. In the event of default of payment, Ingenious shall be entitled to block access to the Client's account or API login and/or stop Tracking and/or cease to carry out other services or cease the performance of ongoing orders and campaigns until the outstanding amount is settled.
- 8.9. Any assignment of claims against Ingenious shall require the express written consent of Ingenious.
- 8.10. Ingenious shall be entitled to adapt prices at their reasonable discretion (Section 315 of the German Civil Code) and to increase prices if further provision of services on a consideration of common interests is not acceptable to Ingenious. Ingenious is further entitled to increase prices if the last increase in price was at least 6 months ago. Ingenious will give one month's notice of any price increase by email. If the Client does not contest in writing within 4 weeks this shall be deemed as consent to the price increase. Ingenious will clearly state this in the notice.

9. Warranty and liability

- 9.1. The warranty provisions of Section 535 et seq. of the German Civil Code shall apply with regard to the granting of use of the Software. The no-fault claim for damages in accordance with Section 536a paragraph 1 option 1 of the German Civil Code is excluded.
- 9.2. The Client shall be obliged to examine the contractual Software and its operability as soon as it is given the possibility to use it and to give written notice of any defect together with a precise description of the fault. Should the Client fail to give notice, the Software shall be deemed to have been approved, unless the defect was impossible to detect during the examination. The same shall apply by analogy to defects that occur at a later time.
- 9.3. A prerequisite to default of defect remedy shall be the fixing of a reasonable time limit for fault correction by the Client. If the time limit expires, the Client shall be entitled to set Ingenious another reasonable time limit for fault correction. Should Ingenious fail to remedy the defect within that time limit, the Client shall be entitled to reasonably reduce the agreed remuneration. All time limits shall be fixed in writing.
- 9.4. In all other respects, the provisions of the law regarding contracts of service in accordance with Section 611 et seq. of the German Civil Code shall apply, with the Client's claims against Ingenious based on defective performance or defects in the provision of the services becoming statute-barred six months after the day on which

- they have arisen and the Client gains knowledge of the circumstances giving rise to the claim or fails to gain such knowledge due to gross negligence or wilful intent.
- 9.5. Ingenious and/or its vicarious agents and/or legal representatives shall be liable only for gross negligence or wilful intent. Contractual and non-contractual liability for any damage to property, financial loss, lost profit and consequential damage caused by a defect suffered by the Client shall be ruled out in the case of slight negligence, unless where liability for breach of a material contractual obligation (*Kardinalpflicht*) is concerned. A material contractual obligation is an obligation the discharge of which makes proper performance of the contract possible in the first place and discharge of which the Client may regularly rely on. In any case of a slightly negligent breach of a material contractual obligation, liability shall be limited as regards its amount to the foreseeable damage typical for the contract.
- 9.6. In all other respects, liability shall be ruled out, with the exclusion of liability not applying in any case of injury to life, body or health of a person and not to liability under the product liability act.
- 9.7. As a service provider, Ingenious cannot be held liable for any damage caused due to technical malfunction or impairment of the performance of providers or other third parties. Ingenious shall likewise not be liable for any damage which the Client might have prevented by taking reasonable measures, in particular by making backups of programs and data on a regular basis, at least daily.

10. Term and termination of the contract

- 10.1. The contract shall come into force upon signing. The contract is concluded for an indefinite period and can be terminated at the end of a month by giving 12 months' notice, unless otherwise agreed individually in writing.
- 10.2. Ordinary notice of termination before the expiry of an agreed minimum term of contract shall not apply. Unless otherwise agreed, a minimum term of contract of 24 months shall apply. The right to terminate the contract without notice on important grounds shall not be affected.
- 10.3. Important grounds for termination by Ingenious shall be in particular if
- the Client, despite a warning, fails to discharge its obligation to pay the remuneration.
 - the Client falls behind with the payment of the monthly remuneration by an amount equal to the remuneration for two months.
 - a claim is asserted against Ingenious by a third party due to an alleged infringement of a right in connection with its activities for the Client; or
 - the Client seriously breaches its contractual duty to cooperate or, in the case of a less serious breach of contract, fails to stop the behaviour complained about despite appropriate notice
 - the Client in contradiction with section 4.8.1 and/or 11 does not comply with data protection standards or – regardless of compliance with data protection standards – data protection or data security problems become publicly known, especially if customer data is exposed to unauthorized access.
- 10.4. Important grounds entitling the Client to terminate the contract because of defects of the Software shall exist only in the case of a substantial defect and only if the Client proceeds as set forth at 9.2 and 9.3 hereof and if Ingenious fails to remedy the defect or grant access to acceptable alternatives within the reasonable time limit. A defect of the Software shall be regarded as substantial only if an essential component of the Software does not, or basically not, function.
- 10.5. Ingenious shall be entitled to terminate contracts or parts of contracts that are free of charge for the Client (e.g. test use) with written notice at any time.
- 10.6. Any notice of termination shall be valid only if made in writing (Section 126 of the German Civil Code). A notice of termination via email is excluded.

11. Confidentiality

- 11.1. The parties hereto undertake to treat as confidential any and all company and business information and knowledge of the other party obtained in connection with the performance of this contract and to not disclose such information or knowledge to any third party without the prior consent of the other party and to impose an appropriate obligation on its employees and vicarious agents. This shall not apply where such information or knowledge is public or already known to the receiving party at the time of disclosure. This obligation shall continue to exist after termination of the contractual relationship.
- 11.2. All documents handed over to Ingenious by the Client are confidential. Ingenious shall keep them carefully and return them to the Client on request. Ingenious shall not have a right to retain these documents. Ingenious shall be entitled to make copies for the purpose of preserving findings and evidence.
- 11.3. Any non-disclosure agreements provided by the Client prior to the conclusion of the contract and concluded between the parties become null and void with the conclusion of this contract and are replaced by this contract.
- 11.4. Where Ingenious needs to process personal data to provide the services, it shall comply with the provisions of the Data Privacy Acts. Stored data shall be kept by Ingenious for a period of at least 6 months, even beyond the term of the contract.
- 11.5. In the context of the cooperation, it cannot be ruled out that Ingenious may obtain personal data of the Client's customers or prospective customers. Ingenious attaches the greatest importance to the confidentiality and protection of data. Ingenious observes the principle of data economy and shall delete personal data of the Client's customers or prospective customers which it obtains at the latest four weeks after payment of the remuneration agreed for the relevant marketing campaign. Ingenious shall protect data in compliance with current standards and technological advance and using encryption methods required by the sensitivity of the data.
- 11.6. Ingenious shall be entitled to process collected data in anonymised form. The anonymised data does not allow any inferences to be drawn about the cooperation partner or its customers

12. Final provisions

- 12.1. The law of the Federal Republic of Germany, excluding application of the UN Convention on Contracts for the International Sale of Goods, shall exclusively govern any dispute between the parties hereto. The place of fulfilment and jurisdiction for any dispute arising from or in connection with this contract, irrespective of the legal basis, shall be Berlin.
- 12.2. Any supplement or amendment to these GTC or the underlying contract shall only be valid if made in writing (Section 126b of the German Civil Code). This shall likewise apply to any alteration of this provision.
- 12.3. Ingenious shall be entitled to adapt these terms and conditions. Ingenious will notify the client of the changes within one month before the validity of the changed terms. If the Client does not disagree in a written notice or via email within 2 weeks after the notification this is deemed to be an agreement with the changes. Ingenious will indicate this in the notice. If the Client makes use of his right to dissent the change of the terms, Ingenious is entitled to terminate the contract within a period of three months towards the end of a calendar month.
- 12.4. The client shall have a right to retain in cases if non-performance or defective performance only related to the particular performance.
- 12.5. The Client shall be entitled to reckon any liabilities under this contract only against such receivables from Ingenious the existence of which has been legally decided or which Ingenious has expressly recognised by a written declaration.

- 12.6. Ingenious shall be entitled to assign this contract with all rights and obligations stipulated in it to a subsidiary or sister company. Such assignment shall become effective 28 days after notification of the Client.
- 12.7. Should any individual provision of this contract be or become invalid, this shall not affect the validity of the remaining provisions.