

General Terms and Conditions

Section A: General provisions

1. Scope of conditions

1.1. All deliveries and services of checkdomain GmbH (hereinafter also referred to as the 'Contractor') shall exclusively be performed on the basis of these General Terms and Conditions (hereinafter also referred to as 'Terms and Conditions').

1.2. We do not recognise any terms and conditions of the customer that deviate from these General Terms and Conditions unless we have expressly agreed to their validity in writing. Our General Terms and Conditions shall apply even if we provide our services without reservations while knowing of the customer's conflicting or deviating conditions.

1.3 The Terms and Conditions apply to consumers and entrepreneurs alike. A consumer means every natural person who enters into a legal transaction for purposes that predominantly are outside his trade, business or profession. (Section 13 of the German Civil Code, BGB) An entrepreneur means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession (Section 14 I BGB).

2. Conclusion of contract

The customer's application for the conclusion of the intended contract consists either of the transmission of the written online order form to the Contractor or of the sending of an electronic declaration, if this is offered in an individual case. The customer shall be bound by its application for seven (7) days. The contract shall only be concluded upon the express acceptance of the customer's application by the Contractor or upon the first act of contractual fulfilment performed by the Contractor. The Contractor reserves the right to refuse to conclude a contract with the customer without stating reasons.

3. Services

3.1 The scope of services and, if applicable, the technical specifications for the respective service result from the associated service description at the time the service was ordered.

3.2 All prices include taxes payable under governing law, in particular value added tax, unless the prices are stated as VAT-excluded.

3.3 The availability of the Contractor's servers shall be at least 99% on average per annum. Times when the servers are not accessible due to events that cannot be influenced by the Contractor, i.e. force majeure, technical problems outside the influence of the Contractor, actions of third parties not commissioned by the Contractor, limited or absent Internet functionality, etc. are excluded from this. Deviating agreements, in particular higher levels of availability of the individual products, may result from the respective relevant SLAs.

3.4 The Contractor is entitled to expand its services, adapt them to technical progress and/or make improvements. This applies in particular if the adaptation appears necessary to prevent misuse or if the Contractor is obligated to adapt the service due to statutory regulations. If the Contractor provides additional services that do not form part of the customer's obligation to pay, these may be omitted or replaced by other solutions at any time.

4. Obligations of the customer

4.1 The customer warrants to the Contractor that all data submitted by the customer to the Contractor is complete and accurate. The customer undertakes to transmit any changes to its data to the Contractor without delay.

4.2 The Contractor is entitled to send all information and declarations of intent relevant to the respective contractual relationship to the email address specified by the customer. The customer represents that it shall check this email inbox regularly for new messages.

4.3 The customer shall conscientiously manage its passwords and other access data and take care to keep them secret at all times. The customer is required to change its passwords regularly and, insofar as these are assigned, it shall change them without delay.

4.4 The customer is obligated to inform the Contractor without delay as soon as it becomes aware that third parties are using its password without authorisation. The customer shall be obligated to compensate the Contractor for all damage due to use or misuse of the passwords by third parties, insofar as the customer is at fault for this.

4.5 The customer is responsible for ensuring that its websites comply with the legal requirements. The customer undertakes not to use the web space provided to it for the dissemination of illegal content.

4.6 The customer is obligated to create daily backups. There is no obligation on the part of the Contractor to regularly back up the content and data of the customer without a separate contractual agreement.

4.7 The customer undertakes to use the resources made available to it in such a way that the security and/or availability and/or system integrity of the Contractor's systems are not impaired.

4.8 The Contractor is entitled to block customer systems or access if the obligations under the present Clause 4 'Obligations of the customer' are violated by the customer or a third party.

5. Warranty

5.1 The customer shall notify the Contractor of defects without delay and shall support the Contractor to the best of its ability in the event of a possible remedy of defects, in particular by taking all reasonable measures for data security.

5.2 The Contractor notes that, according to the current state of the art, it is not possible to create hardware and software guaranteed to work error-free in all application combinations or which can be protected against any manipulation by third parties. The Contractor does not guarantee that hardware and software used or provided by the Contractor meets the customer's requirements, is suitable for certain applications and is free of crashes, errors and malware. The Contractor assumes warranty vis-à-vis the customer only to the extent that the hardware and software used or provided by the Contractor shall function essentially in accordance with the manufacturer's performance specification at the time of transfer, under normal operating conditions and with normal maintenance.

6. Liability

6.1 The Contractor is liable, regardless of the legal grounds, only under the following provisions.

6.2 The Contractor shall be liable for intent and gross negligence in accordance with the statutory regulations.

6.3 The Contractor shall be liable for minor negligence only in the case of breach of a material contractual obligation which permits the due performance of the contract and upon the fulfilment of which the customer may regularly rely. In these cases, the Contractor shall only be liable in the amount of the foreseeable damage typical for the contract.

6.4 The amount of the Contractor's liability shall also be limited, in the event of minor negligence, to the respective remuneration owed for the contract in question for a period of two years.

6.5 In cases of minor negligence, liability for all other damage, in particular consequential damage, indirect damage or lost profits, is excluded.

6.6 The limitations mentioned above shall not apply in the event of injury to life, limb or health or in the event of liability in accordance with the German Product Liability Act.

6.7 Insofar as the Contractor's liability is excluded or limited, this shall also apply to the liability of the Contractor's employees, other staff, representatives and vicarious agents.

6.8 Within the scope of the German Telecommunications Act (TKG), the liability rules under Section 44a TKG remain unaffected in any case.

6.9 In all other respects, our Service Level Agreement (SLA) shall apply in its respective version as contractually agreed.

7. Payment terms

7.1 By default, the customer authorises the Contractor to collect all fees incurred as part of the contractual relationship by direct debit from the account communicated by the customer. The same shall apply in the event that new bank details are communicated. Other payment options may be provided by the Contractor, such as credit card payment, PayPal or bank transfer.

7.2 Fees independent of use are payable in advance, at the latest at the beginning of the respective billing period. Use-based fees shall be paid at the end of the respective billing period.

7.3 The Contractor shall provide an electronic invoice for each payment transaction in the secure customer service area. The sending of invoices by email is free of charge. Invoices shall be due for payment without deduction immediately upon receipt.

7.4 If the customer wishes invoices to be sent by post, the Contractor is entitled to charge a fee of up to EUR 5.00 for each invoice.

7.5 The prices may be changed by the Contractor at the beginning of a new contract term with an appropriate notice period of at least six weeks. If the customer does not object to this change within this period, the change shall be deemed approved. In its notification, the Contractor shall expressly inform the customer of the notice period and the consequences of failure to object.

7.6 If the customer is in arrears with an amount that corresponds to at least one monthly base fee, the Contractor may temporarily block the corresponding service. The temporary blocking of services does not affect the customer's general payment obligation.

7.7 If direct debits, whether different or the same, cannot be successfully collected twice in succession, the customer is excluded from payment by direct debit. Thereafter, it may only pay by way of advance payment. In addition, if the customer is at fault, it must reimburse all costs incurred by the Contractor as a result of the returned direct debits. Furthermore, in this case, the Contractor is entitled to demand all payments due up to the time of the extension of the contract(s) of the customer immediately and in one sum. The Contractor reserves the right to withhold its services in full until all outstanding claims have been settled by the customer.

7.8 The customer shall be in default of its payment obligation, even without receiving a warning, if it does not pay the amount due within 14 days after receipt of an invoice or a notification that the invoice has been uploaded in the customer service area. In the event of a delay in payment by the customer, the Contractor may claim interest on arrears in accordance with Section 288 BGB.

7.9 For unauthorised returned direct debits, the customer must reimburse the Contractor for the return debit costs incurred.

7.10 If the customer has paid fees in advance for performance periods beyond the end of the contract, these shall be refunded to it pro rata temporis after the end of the contract. This does not apply to services of third-party providers, in particular domain registrars or providers of SSL certificates, which are arranged for the customer by the Contractor, unless the third-party providers reimburse the prepaid fees.

8. Content of the web pages, blocking of web content

8.1 The customer undertakes to fulfil its legal notice obligations.

8.2 By transmitting the web pages or content (to the provider), the customer shall indemnify the Contractor from any liability for the content and expressly warrants that it shall not transmit any material and not display any material of third parties which defames, disparages or insults other persons or groups of persons. The customer also warrants that it shall pay any fees arising from the publication of the data (e.g., fees to the GEMA collecting society) to the respective organisations. The customer further expressly warrants that it shall not publish any content or data that violates the governing law of the Federal Republic of Germany. This also applies if such content is made accessible through hyperlinks or other interactive connections that the customer sets up on third-party web pages. Extremist or pornographic content is prohibited. Furthermore, it is expressly prohibited to send so-called 'spam emails' or similar from the Contractor's servers in any way.

8.3 Unless otherwise agreed, content potentially harmful to minors which is not excluded pursuant to Clause 8.2 is only permitted if minors are protected from accessing it and the legally prescribed measures, in particular suitable age verification systems with legal certainty, are provided.

8.4 If the customer violates its obligations under the above Clauses 8.1, 8.2 and 8.3, the Contractor is entitled to block the relevant web pages. The customer shall bear any costs of blocking. Here, it must be clarified that the customer's payment obligation remains generally unaffected by this.

8.5 The Contractor reserves the right to generally block content that could impair the regular operation or the security of the server, or to prevent the operation of such content in individual cases.

9. Term and termination of the contract

9.1 The term of the contract results from the offer.

9.2 The contract is automatically extended by the respective contract term if it is not terminated within the period stated in the respective offer. If the customer is a consumer, the notice period is one month to the end of the minimum contract term. In the absence of timely termination, the contract for consumers shall be extended indefinitely after the expiry of the minimum contract term. The consumer may terminate the contract at any time after the expiry of the minimum contract term by giving one month's notice.

9.3 The contract must be terminated at least in text form in accordance with Section 126b BGB. The notice of termination must state the name of the customer, the customer number and the contract to be terminated. Termination via the customer centre also satisfies the text form requirement. In addition, the customer can use a free termination form in the FAQ section of the website, which contains all the important information for quick processing.

9.4 Both parties are entitled to terminate the contract without notice for good cause. Good cause exists for the Contractor in particular if the customer:

is in arrears with the payment of fees amounting to two monthly base fees;
culpably breaches a material contractual obligation and the customer fails to remedy the situation within an appropriate period despite receiving a warning.

9.5 The Contractor is entitled to irrevocably delete the customer's data still stored on the Contractor's systems after termination of the contract. The customer is responsible for ensuring that it independently backs up its data until the termination of the contract. If, in justified exceptional cases, the customer wishes to access its data again after the end of the contract, this is possible up to a maximum of 14 days after the end of the contract, and only if its data has not yet been completely or partially irrevocably deleted. Here, it must be clarified that the Contractor is in no way obligated to retain the customer data after the end of the contract.

10. Rights of third parties

10.1 The customer warrants that, to the best of its knowledge, no rights of third parties are infringed and no unlawful purposes are pursued by registering or connecting the domain name or by the transmission of its web content to the Internet. The customer acknowledges that it is solely responsible for the choice of the domain name and agrees to indemnify the Contractor against all claims for damages by third parties in connection with the domain name registration or connection. In the event that third parties assert rights to the domain name, the Contractor reserves the right to block the domain name in question until the dispute has been resolved in court.

10.2 If the Contractor becomes aware that the customer's web content infringes on rights, e.g., if the owners of the rights notify the Contractor, it is entitled to block Internet access to the customer's content without further notice and to terminate the contractual relationship without notice after an unheeded warning. The customer is obligated to indemnify the Contractor from all claims of third parties in connection with the customer's infringing web content.

11. Contract transfers

11.1 The Contractor is entitled to transfer the contract to a third party, together with all rights and obligations. The customer will be informed of this via its customer account or by email. In the event of a transfer, the customer is entitled to terminate the contractual relationship without notice and with immediate effect within one month after receipt of this information via its customer account or by email.

11.2 The customer may only assign the contract with the Contractor to third parties with the Contractor's consent.

12. Modification of the Terms and Conditions

12.1 The Contractor reserves the right to modify the Terms and Conditions at any time with effect for the future, unless this is unreasonable for the customer.

12.2 The Contractor is entitled to modify the Terms and Conditions in the following cases:

- if the change serves to bring the Terms and Conditions into compliance with governing law, in particular if the governing legal situation changes;
- if the change serves to help the Contractor comply with mandatory judicial or official decisions;
- if entirely new services or service elements of the Contractor, as well as technical or organisational processes, must be considered in the Terms and Conditions;
- if the change is only beneficial to the customer.

12.3 In such a case, the Contractor shall send the modified Terms and Conditions to the email address provided by the customer at least six weeks before they take effect, while indicating the changes.

12.4 The customer has the option to object to the modified Terms and Conditions within a period of six weeks after the modified Terms and Conditions have been sent with indicated changes before they take effect. If the customer does not object to the modified Terms and Conditions within this period, the modified Terms and Conditions shall be deemed to have been accepted by the customer. The Contractor shall inform the customer of the notice period and the effect of failure to object when notifying the customer of the change.

13. Data protection and order processing

If, as part of order processing in accordance with Art. 28 GDPR, the Contractor acts as a processor for the customer, the Customer undertakes to fulfil all requirements stated in Art. 28 (3) Sentence 2 a) to h) GDPR.

14. Place of jurisdiction and governing law

14.1 If the customer is a business person, a legal entity governed by public law or a public-law corporation, the place where the Contractor has its registered office shall be the exclusive place of jurisdiction for all disputes arising from and in connection with the contractual relationship. In addition, the Contractor shall be entitled to

take legal action against the customer at its general place of jurisdiction.

14.2 These Terms and Conditions are governed by the law of the Federal Republic of Germany, excluding the UN conventions relating to the international sale of goods (CISG).

Section B: Specific provisions

I. Special rules for domains

1. Domain registration

1.1 The contractual relationship required for the registration of the respective domain shall be concluded directly between the customer and the respective domain issuing authority or the respective registrar. The contractual relationship regarding the domain can therefore be governed by foreign laws and regulations. The Contractor shall act within the framework of an agency agreement in its relationship to the customer, but shall not have any influence of its own on the issuing of the domain. The customer can only assume the actual availability and assignment of the domain name once this has been confirmed by the respective network information centre (NIC).

1.2 The different top level domains ('extensions' such as .com, .net, etc.) are administered by various different, usually national, organisations. Each of these organisations for domain issuing has set different conditions for registering and administering top level domains, the corresponding sub level domains and procedures in the vent of domain disputes. If top level domains are the subject matter of the contract, the according issuing conditions shall additionally apply. If .de domains are the subject matter of the contract, the DENIC Domain Guidelines shall apply in addition to the DENIC Domain Terms and Conditions.

1.3 Domain registration takes place though an automated procedure by means of which the data is passed on to the respective registration authority. The registration authority proceeds according to the priority principle, i.e. the first registration received is awarded the domain name. The Contractor cannot assume any guarantee for the allocation of an ordered domain.

2. Obligations of the customer

2.1 The customer is obligated to cooperate fully in all actions required for the registration, transfer or deletion of a domain.

2.2 The customer is solely responsible for ensuring that a domain registered by it and the content accessible under this domain do not violate governing law or infringe the rights of third parties. When using international domains, other national laws and regulations may have to be observed. The Contractor shall not examine this.

2.3 If a third party claims credibly that domains or hosted content infringe the rights of third parties, or if the Contractor is convinced that an infringement of rights is probable due to objective circumstances, the Contractor may temporarily block the content and take measures to make the domain in question inaccessible.

2.4 If the data to be provided in accordance with the respective registration provisions for a domain prove to be incorrect and the Contractor is unable to contact the customer using the data provided, the Contractor may terminate the contractual relationship without notice and have the domain deleted.

2.5 If the customer selects a pay scale on a credit basis for domain registrations or renewals and use of the domain robot, the customer is solely responsible for ensuring sufficient credit for domain registrations or renewals. If the customer fails to recharge its account and, as a result, domains cannot be registered or maintained, the Contractor shall not be liable for any resulting damage.

3. Obligations upon the ending of the contract

3.1 Termination of the contractual relationship with the Contractor shall in principle not affect the registration agreement regarding a domain existing between the customer and the issuing authority or the registrar. Requests for cancellation of the registration relationship must nevertheless be addressed to the Contractor, since the Contractor administers the domain for the domain holder and must regularly forward notifications from the domain holder, including agreement cancellations, to the respective issuing authority or registrar.

3.2 The customer's termination of the contractual relationship with the Contractor therefore requires the customer's express written declaration that the domain is (also) being terminated and can be deleted in order to validly terminate the registration relationship for a domain at the same time. If the customer is a consumer, the aforementioned declaration may also be made in text form, in particular also via email. If the customer is not the domain holder, the cancellation or deletion order requires the written consent of the domain holder or Admin-C (Administrative Contact). Sending the declaration by fax is also sufficient.

3.3 The period for issuing domain cancellation requests to the Contractor for all domains is four weeks to the end of the term of the registration relationship, which is based on the issuing conditions of the respective issuing

authority or registrar.

3.4 If any domain cancellation requests are delayed, the Contractor shall forward these to the registration authority without delay. However, it must be clarified here that if a cancellation request concerning the domain registration agreement is not issued by the customer in due time and the term of the domain registration is extended vis-à-vis the issuing authority or the registrar as a result, the customer's obligation to pay remains in force for the period of the extension.

3.5 If the customer terminates the contractual relationship with the Contractor but does not give explicit directions as to what is to be done with the domains registered via the Contractor to date, the obligation to pay remuneration for the domains shall also remain in force until further notice. After an unsuccessful request to the customer to account for the domains in writing or per fax within a reasonable period has been sent to the email address furnished by the customer, the Contractor is entitled to transfer the domains to the direct administration of the respective issuing authority or to release the domains on behalf of the customer. The same shall apply in the event of the Contractor's termination of the contractual relationship with the customer.

3.6 If domains are not placed under the administration of another provider by the customer at the latest by the termination date of the agency agreement on the administration of the domain between the customer and the Contractor, the Contractor shall be entitled to transfer the domains to the direct administration of the respective issuing authority or to release the domains on behalf of the customer. This also applies in particular if the customer has issued an instruction with regard to the transfer of the domain to a new provider, but this is not implemented in good time.

II. Special rules for email services

1. The customer shall retrieve incoming messages in its email inboxes at regular intervals.
2. The Contractor may refuse to forward emails sent to its customers if facts justify the assumption that an email contains harmful software (viruses, worms or Trojans, etc.), the sender information is false or disguised or it is so-called spam email.
3. The sending of so-called spam emails is prohibited. Providing false sender data when sending emails is also prohibited.
4. If the customer sends spam emails within the meaning of the preceding paragraph, the Contractor may temporarily block the concerned email inboxes of the customer.

III. Special rules for web hosting

The customer is responsible for ensuring that the provision and publication of content on the websites or data uploaded by it does not violate German or other relevant national laws, in particular copyright law, trademark law, right to a name, data protection law and competition law. The Contractor reserves the right to temporarily block any content that appears questionable to it in this respect. The same shall apply if a third party requests that the Contractor change or delete content on hosted websites because this content allegedly violates governing law or infringes the rights of third parties.

IV. Special rules for servers

1. Administration and use

1.1 If the customer has sole administrator rights, the Contractor cannot administer the server. As server administrator, the customer is solely responsible for protecting the server against unwanted access and manipulation by third parties via the Internet. It is incumbent upon the customer to install and activate appropriate protection software, to regularly obtain information about security breaches that become known and to close known security breaches. The installation of maintenance programs or other programs provided or recommended by the Contractor shall not release the customer from this obligation.

1.2 The customer is obligated to set up and administer its servers in such a manner that the security, integrity and availability of the networks, other servers, as well as software and data of third parties or the Contractor are not jeopardised. If a customer endangers the security, integrity or availability of networks, other servers, as well as software and data of third parties or the Contractor by means of its servers, or if the customer is suspected of doing so due to objective circumstances, the Contractor is entitled to temporarily block the server. This shall also apply if the customer is not responsible for the harmful action or condition, e.g., if the customer's server is manipulated and used by third parties. Upon deliberate violation by the customer, the Contractor shall be entitled to immediate termination without notice of the contractual relationship.

1.3 The customer is obligated to create daily backups. There is no obligation on the part of the Contractor to regularly back up the content and data of the customer without a separate contractual agreement.

1.4 Internet Relay Chat (IRC) services, anonymisation services and P2P file sharing services may only be used

by the customer with the prior written consent of the Contractor.

2. Surrender of use to third parties

The transfer of servers to third parties in return for payment is prohibited, unless the Contractor has given its prior consent in individual cases.

V. Reactions of the Contractor in the event of infringements and endangerments

1. If a third party claims credibly that the content of websites or a domain in itself infringes the rights of the third party, or if an infringement of rights by domains or content seems probable due to objective circumstances, the Contractor may block the website for the entire duration of the infringement or the dispute with the third party regarding the infringement.
2. If the possible infringement is caused by a domain, the Contractor may take measures to make the domain inaccessible. In cases where the infringement by a domain seems certain due to objective circumstances, the Contractor may terminate the contractual relationship without notice.
3. In the event of infringing content, the Contractor may also declare a termination without notice instead of merely blocking the content.
4. If the customer sends spam emails, the Contractor may temporarily block the inboxes on the email server.
5. On the basis of objective criteria, the Contractor may refuse emails sent to its customers if facts justify the assumption that an email contains harmful software (viruses, worms or Trojans, etc.), the sender information is false or disguised or the email consists of unsolicited or obscured commercial communications.
6. The Contractor's claim to payment shall continue to exist if a service was blocked for the above-mentioned reasons.

VI. Indemnification claim

The customer undertakes to indemnify the Contractor by internal arrangement against any claims asserted by third parties regarding unlawful or infringing content or actions of the customer. This particularly applies to breaches of copyright law, trademark law, right to a name, data protection law and competition law. The customer shall further be obligated to compensate the Contractor for all damage due to such a breach, insofar as the customer is at fault for this. The damage compensation also includes the reasonable costs of any necessary legal defence on the part of the Contractor.

Notes: The customer is aware of the fact that the Contractor collects and processes data of the customer as part of the contractual relationship and in accordance with the statutory regulations. Further details are laid down in our privacy policy. The European Commission provides consumers with a platform for extrajudicial online dispute resolution that can be accessed here: <https://ec.europa.eu/consumers/odr>. The Contractor's email address can be found in the legal notice. However, the Contractor is neither obligated nor willing to participate in a dispute resolution procedure.

As of: 04/12/2022