

General Terms and Conditions of Quisma GmbH

Date: 31 January 2012

1. Basic details

- 1.1 Quisma GmbH („QUISMA“) has its offices on Rosenheimer Strasse 145d in D-81671 Munich and is one of the leading agencies for performance marketing in Europe. QUISMA is a subsidiary of WPP plc.
- 1.2 The present General Terms and Conditions of QUISMA („GTC“) become an integral part of the contract concluded between QUISMA and the client, unless the contractual parties conclude an agreement in deviation thereof.
- 1.3 The conclusion of contract is subject to the written form; for the effectiveness of all other declarations of intention the text form will be sufficient, unless the present GTC or the contract between the contractual parties require the written form.

2. Services of QUISMA

- 2.1 QUISMA provides services in the field of performance marketing, among these services are search engine optimisation, search engine marketing, affiliate marketing, conversion optimisation and performance display marketing.
- 2.2 QUISMA reserves the right to expand or change the offered work performance and services, or to implement improvements. QUISMA will be specifically entitled to a change of the services if these are based on a change which is mandated for QUISMA by a contractual party or on basis of changes to the legal regulations or the applicable law.
- 2.3 If QUISMA cannot fulfil its contractual obligations or not on time or in other respects not in accordance with the contract in consequence of force majeure, e.g. war or civil unrest, natural disasters or fires, epidemics or quarantining, government action or similar circumstances, QUISMA will in such event and to the extent of the effects resulting thereof be released from the fulfilment of this obligation.
- 2.4 QUISMA shall grant the client the right, which can be revoked at any time and which is non-exclusive and non-transferable, to the use of the software, applications or similar programs, which are made available to the client by QUISMA on basis of the provisions of the contract in the scope of the contract concluded between QUISMA and the client. The rights granted in the above clause will automatically expire in the event the contract between QUISMA and the client is terminated, independent of the respectively arisen reason for termination.

3. Obligations of the client

- 3.1 The remuneration to be paid by the client will be determined by and results from the contract between the client and QUISMA.
- 3.2 Objections against quantity and price of the supplied services shall be submitted in writing to the address stated as sender in the invoice directly after the receipt of the invoice. Objections must be received by QUISMA at the latest within six weeks as of the invoice date. Failure to submit objections in timely manner will be deemed approval. Statutory claims of the client in case of objections raised after the elapse of the deadline will remain unaffected.
- 3.3 The contractually agreed upon remuneration will be due 14 days after receipt of a written invoice by the client.
- 3.4 In the meaning of an independent guarantee commitment, the client guarantees having all rights in its entitlement which are required for the implementation of the contract in their full scope and to be able to assign these rights to the required extent to QUISMA without thereby infringing upon the rights of third parties. The client guarantees in particular that it holds the proprietary rights in the meaning of the German Copyright Act and other industrial property rights for the contents made available by it and that it is authorised for the publication and dissemination to third parties for the purpose of publication to the extent required for the implementation of the contract. The client will be solely responsible for the correctness of its contents and will be solely liable for any rights infringements. The client guarantees that the contents delivered by it and their use by QUISMA, as well as the links to further pages, do not violate the respectively applicable legal order. In particular, the client guarantees that it will not transmit any contents whose advertising or distribution is a breach of statutory prohibitions (e.g. criminal and misdemeanor laws), or a violation of morality or rights of third parties (personal rights, rights to a name, copyright, trademark, data protection, other industrial property rights, etc.) Furthermore, the client will not transmit any contents glorifying war, or any contents which are obviously suitable for endangering the morality of children or adolescents, or which depict people who are dying or suffering or have died or suffered from serious physical or mental afflictions in ways violating human dignity and which reproduce an actual event without an overriding, justified interest being present for precisely in this form of depiction, or which violate human dignity in other ways, or the laws on narcotics, pharmaceuticals or firearms, or which are not permitted to be made publicly accessible and the client guarantees that it will neither transmit any input containing viruses, Trojans or other similar programs, which are suitable for damaging, secretly intercepting or deleting data or systems.
- 3.5 In the event of a breach of number 3.4, the client shall immediately remedy the violation, compensate QUISMA for any damage created by the violation and shall indemnify QUISMA from all claims filed by third parties on the basis of the violation and shall compensate the created costs for the legal defence in full amount. The following liability limitations stated in clause 4.1. are not applicable to such event. In the case of a legal proceeding against QUISMA as a consequence of such a violation, the client shall enter the lawsuit in support of QUISMA at the request of QUISMA. In case of a violation, QUISMA may immediately discontinue its services and cancel the contract without notice.

4. Liability of QUISMA

4.1 In the event of liability independent of fault, the contractual parties will only be liable - regardless of the legal reason - in the following cases:

- injury to life, body or health caused by an intentional or negligent breach of duty by a contractual party or an intentional or negligent breach of duty by a legal representative or assistant of a contractual party; or
- damages caused by an intentional or grossly negligent breach of duty by a contractual party or an intentional or grossly negligent breach of duty by a contractual party's legal representative or assistant is served.

In case of a breach of relevant contractual obligations on basis of simple negligence, the liability will be limited to the typically predictable damage. The liability is in this regard limited to an amount of 100% of the annual contract value (remuneration exclusive of third-party services).

4.2 The above liability limitations will not apply in cases of obligatory statutory liability, in particular under the laws of product liability.

4.3 Irrespective of any shorter statutory periods, all claims against QUISMA resulting from the contract must be filed in court within one (1) year after their creation. Contrary obligatory statutory periods will remain unaffected thereof.

5. Contract term and cancellation

5.1 The term of the contract results from the contract or the separate agreement between the client and QUISMA.

5.2 A cancellation is possible at any time in writing in observation of a period of four weeks toward the end of a month, after expiration of the minimum contract term as provided in the contract and its possibly agreed automatic prolongation. The date of receipt of the notification will be decisive for the adherence to the period.

5.3 Both QUISMA as well as the client will be entitled to cancellation of the contract without notice for cause (fristlose Kündigung aus wichtigem Grund). Reasons entitling QUISMA to cancellation without notice for cause include but are not limited to the cases that existing contractual relationships with QUISMA's contractual parties are put at risk due to the client's behaviour, or the client is in default with payment in two consecutive months, the client becomes insolvent, especially in case of a bankruptcy or settlement proceeding over the assets of a contractual party is initiated or if the opening of the bankruptcy proceeding is rejected on grounds of a lack of assets (default, payment suspension or termination of the business operation - regardless of the reason - are equivalent to insolvency), or the client violates material provisions of these GTC.

6. Consent for the use of business information sources

The client grants its consent for QUISMA's transmission of data on basis of behaviour in violation of contract (e.g. termination on grounds of failure to make payment, applied for court order to pay in case of undisputed receivables, as well as enforcement measures).

7. Confidentiality and data protection

7.1 The contractual parties shall treat the content of the contract confidentially as well as all information, documentation and data that is not publicly accessible and will not make it available to third parties. In this context, third parties are defined as entities that are not affiliates according to §§ 15 and the following of the German Companies Act (AktG), as well as professional advisers of the contractual parties who are obligated to secrecy by way of agreement, professional ethics or law, and who are involved in the conclusion, assessment or execution of this contract on behalf of one of the contractual parties. This applies in particular to auditors, tax advisers, attorneys and management consultants. The contractual parties undertake to take all appropriate measures in order to fulfil the obligations under this provision. This shall continue to apply for a period of two years after this contract has ended.

7.2 The obligation shall not apply

7.2.1 insofar as the disclosure is required for the fulfilment of the contract,

7.2.2 insofar as the contract or a contractual party expressly authorises the other party for disclosure,

7.2.3 regarding information, which has already been generally accessible and known at the time of disclosure, unless the disclosure relates to the dissemination of address data,

7.2.4 regarding information, which has been independently compiled without the use of the confidential information of the other contractual party,

7.2.5 insofar as a contractual party is obligated for disclosure of the information for legal reasons or on basis of official or court order, or

7.2.6 insofar as confidentiality opposes the exercise of own claims.

The contractual party claiming one of these exceptions will also have the burden of proof.

7.3 The contractual parties are obligated to observe and adhere to all regulations under data protection laws.

7.4 If there is any change in the client data as specified at the time of contract conclusion, which shall be given truthfully and completely by the client, the client will be obligated to QUISMA for the immediate correction of the original data.

8. Online usage data

8.1 In carrying out performance marketing services for the client, QUISMA may also collect and retain anonymous data about users of the client's campaigns ("Usage Data").

8.2 QUISMA and companies affiliated with QUISMA according to §§ 15 and the following of the German Companies Act may use such

Usage Data to compile aggregate statistics, metrics and trend data to optimise campaign delivery for the client and other clients, and use such Usage Data in an anonymous database for optimisation purposes for future campaigns for the client and other clients on an ongoing basis.

- 8.3 In the use of the media data, QUISMA and companies affiliated with QUISMA according to §§ 15 and the following of the German Companies Act will not identify the client to third parties.
- 8.4 The client shall be liable for its website adhering to the corresponding data protection laws and for the website containing an appropriate data protection notice.

9. Performance marketing

QUISMA shall bear the costs and risks for the implementation of performance marketing services. The contractually agreed remuneration therefore constitutes a total remuneration (except for incurred taxes, if applicable) and includes a risk and optimisation surcharge. Costs and rebates of any kind that are related to the fulfilment of performance marketing services will not be passed on to the client. The remuneration for a unit (e. g. CpC, CpL, CpX) is binding, independent of the actual costs and/or rebates by QUISMA to the effect that neither the client nor QUISMA may demand an adjustment of the remuneration on basis of changed costs and/or rebates. The client does not have an audit right.

10. Advertising materials and press releases

Each of the contractual parties will submit all advertising, press and other publications relating to or affecting the contract to the respective other party for prior reconciliation, whereas consent or refusal shall be respectively declared in writing without delay. Texts approved for publication may be used until the approval is revoked, or in the case of an approval, which is limited in time, until the expiration of the period.

11. Final provisions

- 11.1 The contract concluded between QUISMA and the client as well as its implementation is governed exclusively by the laws of the Federal Republic of Germany under exclusion of the United Nations Convention on the International Sales of Goods from 11 April 1980.
- 11.2 The place of jurisdiction is Munich, insofar as is legally permissible.
- 11.3 Insofar as the written form is required, this contract, all agreements between the contractual parties must be made in writing in order to be effective. This also applies to amendments and additions, as well as to the cancellation of the clause for the requirement of the written form itself.
- 11.4 The respectively current version of the GTC shall apply at the time of the conclusion of the contract. Contradictory general terms and conditions of the client will not apply. QUISMA reserves the right to amend its GTC at any time for future business transactions. In this case, the intended change must be communicated to the client in writing. The changes will be deemed approved if the client does not raise objections in writing. QUISMA shall provide a special notice as to this consequence in the announcement of the changes. The written objection must be received by QUISMA within six weeks of the notification of the changes. If such objection is raised, the contract will remain in force without the proposed changes. The right of the contractual parties to terminate this contract remains unaffected thereof.
- 11.5 QUISMA is entitled to transfer all rights and obligations from this contract to a company that is an affiliate of QUISMA according to § 15 of the German Companies Act.
- 11.6 The client may only offset claims which are undisputed or found to be legally valid against the claims of QUISMA. The client may only claim a right to retention if the respective claims are based on the same contractual relationship.
- 11.7 Severability clause Should one or several provisions of the contract between QUISMA and the supplier be or become fully or partly invalid, the validity of the remaining provisions of the contract will not be affected thereby. The contractual parties shall agree to a provision in replacement of the invalid or impracticable provision which comes close as possible legally and actually to the economic purpose of the invalid or impracticable provision. If an omission becomes apparent in the contract which cannot be amended by interpretation of the remaining provisions, the provision will be deemed agreed to for the amendment of the omission which comes as close as possible to the economic interests of the contractual parties had this aspect been considered.